SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA
SANTA MARIA BRANCH; COOK STREET DIVISION
DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

THE PEOPLE OF THE STATE OF )
CALIFORNIA, )
Plaintiff, )
-vs- ) No. 1133603
MICHAEL JOE JACKSON, )
Defendant. )

REPORTER'S TRANSCRIPT OF PROCEEDINGS

THURSDAY, MARCH 24, 2005

8:30 A.M.

(PAGES 3321 THROUGH 3375)

REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
BY: Official Court Reporter 3321

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1 I N D E X
2
3 Note: Mr. Sneddon is listed as “SN” on index.
4 Mr. Zonen is listed as “Z” on index. Mr. Auchincloss is listed as “A” on index.
5 Mr. Mesereau is listed as “M” on index. Ms. Yu is listed as “Y” on index.
6 Mr. Sanger is listed as “SA” on index. Mr. Oxman is listed as “O” on index.
7 Mr. Nicola is listed as “N” on index.
8
9 PLAINTIFF’S WITNESSES DIRECT CROSS REDIRECT RECROSS
10
11 CANTU, Antonio A. 3324-SA 3339-A 3343-SA (Cont’d)
12 3352-A 3356-SA
13 (Further) (Further)
14 HEMMAN, Lisa Susan Roote 3361-N
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Santa Maria, California
Thursday, March 24, 2005
8:30 a.m.

THE COURT: Good morning.
COUNSEL AT COUNSEL TABLE: (In unison)
Good morning, Your Honor.
THE COURT: Wasn't there a witness?
MR. AUCHINCLOSS: Yes. Dr. Cantu, please.
THE COURT: You're still under oath. Please
be seated.
MR. SANGER: May I proceed, Your Honor?
THE COURT: Yes.
MR. SANGER: All right.

ANTHONY A. CANTU
Having been previously sworn, resumed the
stand and testified further as follows:

CROSS-EXAMINATION (Continued)
BY MR. SANGER:
Q. Dr. Cantu, you have expressed an interest in
countering the challenges that have recently come up
to fingerprint identification; is that correct?
A. I've been involved in discussions of that
nature, yes.
Q. And recent challenges have involved, for
instance, a fairly well-known court case in 3324

Pennsylvania, where Judge Pollack ruled on fingerprint admissibility?
A. Yes, sir.
Q. Okay. There have been some rather remarkable issues regarding reliability of fingerprint comparison, correct?
A. That's what I understand.
Q. You're aware of the Oregon attorney who was accused of the Madrid terrorist bombing; is that correct?
A. I'm aware of that.
Q. The people that did that fingerprint comparison were in the FBI office in Washington D.C.?
A. That's correct.
Q. Those are people you know, right?
A. No, I do not know them.
Q. Okay. That's fine.
In the context of this, you have expressed a desire to see that the second part of what we have been talking about -- we've been talking about the first part, which is being able to see fingerprints so you can look at them, and then presumably compare them, right?
A. That's correct.
Q. And the second part is comparing them?
A. That is correct.
Q. And you have indicated that you believe 3325

there needs to be additional validation studies in order to bolster the admissibility of fingerprint evidence in this country, correct?
A. No, sir, that is not correct. I've been involved in discussions of that nature, but I don't think you've ever seen coming out of my mouth a statement like that.
Q. Do you remember sending a communication to Richard Rau, R-a-u, who's the senior program manager at the National Institute of Justice?
A. He was.
Q. He was. And in February of 2000, did you tell him, "It will not be long before more and more cases come up where fingerprint testimony will be challenged, and therefore we need to provide the examiners with necessary hard data on validation to counter challenges"?
A. I believe I did say that.
Q. Okay. All right. So when you're talking about validation, additional hard data on validation, you're talking about validating the second part, which is the aspects of comparison, that there's permanence, there's individuality, and that comparisons can actually be made to come up with a positive conclusion, right?
A. Well, that's what some people contend. I'm not, as I mentioned earlier, in that area. My particular expertise has been in the first part, 3326

coming up with technology for the visualization of fingerprints and advanced technology to be able to detect fingerprints that would not be able to be detected by the ordinary methods.
Q. Okay. I understand. And that's a science, that's part of the science that you study; is that correct?
A. Well, I'm a chemist.
Q. You're a chemist. You're a scientist, right?
A. Yes, sir.
Q. And you're a very senior scientist for the United States Secret Service, correct?
A. That is correct.
Q. How many times have you testified in court?
A. Probably in excess of 40 times.
Q. Okay. And how many times have you been called to testify in court before a jury?
A. About that many times.
Q. About that many times. How many times have you been called by the prosecution, U.S. Attorney, or the District Attorney, or whatever the prosecution --
A. Most of those times.
Q. Would it be all of those times?
A. I'd have to look at my records. I don't have that. I believe it's most of those times.
Q. All right. You're pretty sure it's most of 3327

those times, right?
A. Yes.
Q. All right. So you're trying to think, was there a time or two that you may have been called by a defense lawyer?
A. Yes, that's what I think.
Q. Can't think of one right at the moment?
A. No.
Q. Okay. And basically what you've come to tell us is that there's a ninhydrin process which makes it possible to visualize or see latent prints, that is, prints that you can't really see on paper. You use this ninhydrin, and they turn purple and you can see them, right?
A. That's one of the processes.
Q. And that's been around since the '50s, right?
A. That particular one has.
Q. And you developed actually a newer version of that ninhydrin process, haven't you?
A. Several.
Q. Do you know what version of the process was used here in Santa Barbara, Santa Maria, with regard to Mr. Jackson's case?
A. Well, as far as the amino acid visualization, it was ninhydrin.
Q. So you're aware of that?
A. Yes. 3328

Q. All right. And then you've come to tell us that the super glue fuming process is one that's existed, I think you said, since the '80s; is that correct?
A. I believe '70s, but --
Q. '70s or '80s?
A. It's been quite some time.
Q. Quite some time. And that's been around. And that basically is another way of visualizing these things, so you can actually see the ridge marks, right?
A. Depends on the surface, of course. But yes, in this particular case that's what was used.
Q. And you've been told that; is that correct?
A. Yes, I saw the evidence.
Q. Okay. Now, I think you said yesterday that you had not evaluated any of the evidence in this case?
A. No. I mean, I did say I had not evaluated any of the evidence --
Q. All right.
A. -- as far as the comparison of fingerprints.
Q. So what you did is you looked to see what technology they used to bring forth the fingerprints so they were visual?
A. Correct.
Q. Okay. And then you talked about the Scenescope, which is a device that uses the 3329

1 ultraviolet light to make it easier to see
2 fingerprints; is that correct?
3 A. Yes, sir.
4 Q. All right. Now, there are a couple issues
5 that you're aware of -- let me see if this is true
6 or not. Let's talk about a couple. One, with
7 regard to the fuming technique, the fuming technique
8 can be done to excess; is that correct? If you
9 overfume the paper, you can lose some of the detail;
10 is that correct?
11 A. That is correct.
12 Q. And when you have a Scenescope, you can, in
13 fact, minimize the fuming, because the Scenescope is
14 going to be more sensitive in picking up the ridges
15 or the imprints of the ridges; is that correct?
16 A. There's some truth to that, yes.
17 Q. Okay. You also -- well, let me ask this:
18 Generally the Scenescope company, the company,
19 whatever its name was over a period of time that has
20 manufactured this Scenescope, recommends that film
21 be used rather than digital when taking the pictures
22 through the Scenescope; is that correct?
23 A. That's a recommendation, sir.
24 Q. Okay. And you're aware that using a digital
25 camera can actually filter out some of the detail;
26 is that correct?
27 A. No, that's not quite correct. It all
28 depends on the digital camera, its resolution, and 3330

that's something that has to be taken into account. And the people at Spex are fully aware that a good digital camera will bring out the details that are in a fingerprint.
Q. Their recommendation, however, is that you use a 35-millimeter-film camera, correct?
A. Like you said, a recommendation.
Q. All right. And you're aware of studies showing that -- that some of the detail, particularly in between ridges or nonridge detail of fingerprints, can be lost when using a digital camera, correct?
A. No, I'm not aware of that.
Q. All right. Now, you told us that you developed prints -- I mean, not oversimplify, you told us that you're familiar with the technology used to develop prints and, in fact, you've been -- you participated in improving that technology, right?
A. Yes.
Q. Okay. Nevertheless, when you are dedicating part of your career to this, you must understand what it is that's going to be done with the developed prints, correct?
A. Right.
Q. All right. So you know that one of the things you're looking for, or a latent print examiner, which you're not, I understand, but one of 3331

1 the things that a latent print examiner is going to
2 be looking for are ridge details; is that correct?
3 A. Correct.
4 Q. So when you talk about ridge details, you're
5 talking about the parts of the skin that protrude
6 and form ridges?
7 A. Correct.
8 Q. All right. The people who are doing this
9 examination have begun to call themselves
10 ridgeologists; is that correct?
11 A. Yes, I've heard that term.
12 Q. Okay. Now, I'd asked you before, when it
13 goes from your part of the science to raising the
14 prints so they can be seen to the next step, the
15 next step is not scientific, is it?
16 A. I wouldn't say that.
17 Q. It's subjective, is it not, sir?
18 A. I cannot say that.
19 Q. You cannot say whether it's subjective or
20 not subjective?
21 A. It's not my area of expertise.
22 Q. Okay. But basically, you have people who
23 are going to look at what has been raised as a part
24 of your technology, let us say, and they're going to
25 compare it with a rolled print, you know that,
26 right?
27 A. Yes.
28 Q. And they are going to come to a conclusion 3332

as to whether or not they believe it matches, correct?
A. That is correct.
Q. All right. Now, in the course of doing this, they'll be looking for the identification of certain points from the latent fingerprint to the known fingerprint; is that correct?
A. That's the way the comparison is done, yes.
Q. Okay. They'll also -- besides looking for comparisons of ridge detail, they may also be looking for pores; is that correct?
A. If they are present.
Q. All right. So that's one of the things that you would like to bring out with your technology? In other words, your effort to come up with the best latent print that can be obtained, you would like to have all the detail there that would be possible for a print examiner to compare, correct?
A. That would be ideal, but it doesn't happen all the time.
Q. Okay. Well, we'll get to what happens, but your goal is to give them the best prints so that you can -- you can compare it?
A. Well, I should add, even a rolled print that you've been talking about, one that's carefully done, sometimes does not contain any pores.
Q. All right. We're going back to pores, but that's where I was going back, so you're right. 3333

1 Okay.
2 Sometimes a rolled print doesn't even
3 contain all the ridges; is that correct? There can
4 be a fold in the paper, there can be some glitch in
5 rolling the print?
6 A. That's correct.
7 Q. All right. Now, digital imaging tends not
8 to pick up the pores as well as film imaging or a
9 film camera, correct?
10 A. I cannot say that. First of all, for
11 reasons that it's not part of my expertise.
12 Q. Now, let me just ask you about -- I know I'm
13 going to mispronounce it, but it looks like
14 1, 2-indanedione, known as IND, which would be my
15 preference, if we can call it that. Are you
16 familiar with that?
17 A. Yes.
18 Q. And is that an advancement in the
19 visualization or the ability to visualize latent
20 prints?
21 A. The amino acid portion, yes.
22 Q. Do you know if that was used at all in this
23 case?
24 A. No, it was not used.
25 Q. And that's something that you helped develop
26 here in the last ten years or so; is that correct?
27 A. Correct.
28 Q. All right. Now, let's just talk briefly 3334

about prints in the demonstration that was given here. You recall the demonstration that was given yesterday?
A. Yes.
Q. And you sort of stood back and you let Mr. Sutcliffe do it, I think; is that safe to say?
A. That's correct.
Q. You didn't have anything to do with putting the fingerprints on the paper that was put under the Scenescope, did you?
A. No. I had nothing to do with it.
Q. Okay. So, you would agree that when fingerprints are found in their natural state, for lack of a better term, but at a crime scene or wherever, you don't have -- for the most part, you don't have people rolling their thumbprint on a piece of paper, correct?
A. I'm sorry, could you repeat that question?
Q. Well, it's just a basic question. In other words, when we saw the demonstration, I believe that Mr. Sutcliffe at one point took his -- it may have been his thumb or his finger, and he kind of rolled it, pushed it onto the paper so it could be seen. That's pretty much an ideal fingerprint, is it not?
A. Yes.
Q. And, in fact, I think he was wearing gloves before he did that. He took the gloves off, and made a good, clean, print; is that right? 3335

A. That's correct.
Q. And you had a chance to see it up on the screen, correct?
A. I did.
Q. And it looked like a pretty good, clean print, right?
A. That's correct.
Q. And were you to see that in actual -- in the actual course of a case, you would say that is a pretty good, clean print, right?
A. That's correct.
Q. What happens is you have generally partial prints that are sometimes smudged, that are sometimes just the tip of a finger or the side, or the -- whatever, correct?
A. Correct.
Q. And so you try to develop whatever is on the paper so that it can be seen?
A. Correct.
Q. Sometimes that fingerprint may be over another fingerprint or over some other imperfection in the paper, or whatever the substance is, that makes it impossible to see the rest of the print, correct?
A. It may.
Q. So the challenge is to take whatever you have, and get as clear a picture of whatever that is so the latent print examiner can make a comparison; 3336

1 is that right?
2 A. Well, my role is to provide them with the
3 best possible tools to develop the print.
4 Q. Right. And actually, you don't go out in
5 the field and do this latent print development
6 yourself, do you?
7 A. Not recently.
8 Q. Okay. You've done it on occasion?
9 A. Yes.
10 Q. All right. Your job is really, as a
11 chemist, to -- for the United States Secret Service
12 to come up with the best technology you can to make
13 this work; is that right?
14 A. That is correct.
15 Q. And by "this" I mean the visualization of
16 these latent prints.
17 A. That is correct.
18 Q. And this has been something you've been
19 working on now for the last few years; is that
20 right?
21 A. I think I mentioned in excess of 20 years.
22 That's one of the areas that I get involved in.
23 There are other ones, of course.
24 Q. Originally you were with the ATF --
25 A. That's correct.
26 Q. -- Alcohol, Tobacco and Firearms, right?
27 And you've written a lot of papers; is that
28 correct? 3337

A. Correct.
Q. You have written more papers, for instance, on the subject of identifying ink or pencil lead, those kind of markings on paper, than you have about fingerprint development; is that correct?
A. I gave a number of -- when I was asked about publications, and I think I said of 26 papers that are, you know, published in peer-reviewed journals, and nine of those are on fingerprints. And I've got two that are in review right now. One is a chapter in a book. And the other one is a publication on -- again, on fingerprints, that's going to be in the Journal of Forensic Sciences. So that would be like a total of 11.
Q. I thought you said seven and two for nine, yesterday?
A. Seven and two, okay.
Q. All right. Well, whichever one it is, that's a lot of papers. But you've written more papers on ink, and documents, the identification of ink and pencil lead and that sort of thing in document review than you have on fingerprints, right?
A. That is a fascinating area. Yes, I have worked on the area of the analysis of items on documents to be able to associate documents, date documents, and this includes ink, paper, pencil, erasure residue, and things like that. And 3338

fingerprints is just one of the items that you find on documents as well.
Q. Okay. But -- thank you. But the subject matter of the papers on ink had nothing to do with fingerprints, did they?
A. No.
MR. SANGER: Okay. Thank you. Okay.
I have no further questions. Thank you.
MR. AUCHINCLOSS: Very briefly, Your Honor.

REDIRECT EXAMINATION
BY MR. AUCHINCLOSS:
Q. As far as the use of digital cameras in capturing a fingerprint on a piece of paper, have you ever used a digital camera to do that?
A. We have tested some digital cameras for doing that.
Q. And have you found them to be satisfactory?
MR. SANGER: I'm going to object as lack of foundation.
THE COURT: Sustained.
Q. BY MR. AUCHINCLOSS: Have you used -- you said you've used digital cameras to -- well, let me back up.
Have you used digital cameras to photograph fingerprints in the past?
A. Our laboratory has.
Q. And have you reviewed those photographs? 3339

A. No, I have not had a chance to review them.
Q. All right. As far as the questions
regarding the protocol that was used in this case,
have you had an opportunity to talk to Detective Tim
Sutcliffe about the exact protocol that was used to
examine fingerprints in this case?
A. Yes, I did.
Q. And are you aware of the fact that they
initially looked at the magazines to see if they
could see anything with the naked eye or with a
loop?
MR. SANGER: I'm going to object that that
calls for hearsay.
THE COURT: Sustained.
Q. BY MR. AUCHINCLOSS: Then I'll ask it in
hypothetical form.
Assume that -- and this is a hypothetical.
Assume that a large number of magazines are being
looked at for latent fingerprints. Assume that the
first step is to use an alternative light source,
look at the magazines visually, see if you can find
any biological evidence, including fingerprints, on
those magazines.
Assume the next step is that you then fume
the magazines with the super glue. And then you
again look at the magazines using the Scenescope and
the alternative light source that's provided by the
Scenescope. You identify notable prints, you circle 3340

them, you have a system by which you identify those prints, and then you take it a step further. You use a ninhydrin solution and go on to a second phase of looking for prints on these magazines where -- or I should say a third phase, where you're actually looking for identifiable prints that are shown by the ninhydrin solution, and you note those items, circle them, and document their location on the individual pages.

In your opinion, do you have an opinion as to the validity or integrity of such a protocol for identifying and locating fingerprints on smooth magazine paper surfaces?

MR. SANGER: I'm going to object that that's an improper hypothetical, and it's vague as to "the validity or integrity."

THE COURT: Overruled.

You may answer.

THE WITNESS: Thank you, Your Honor.

THE COURT: You may answer.

THE WITNESS: I gave an answer yesterday to that effect when you asked me about smooth paper, like on a magazine, and I indicated a protocol that could be used. And I indicated that one would use optical methods first, maybe use the ultraviolet imaging source for the purpose of seeing if there's any prints that it could bring out before any processing. And then the super glue would be the 3341

next step, and see if there's any prints visually also using the Reflected Ultraviolet Imaging System. And you find some -- let's say you find some in that case, and you mark them. And then the next step, "Let's go after the amino acids," and that would be the use of a ninhydrin or other reagents. But in this case, ninhydrin is the one that was used.
So I did indicate that yesterday.
Q. BY MR. AUCHINCLOSS: And so what is your opinion about the use of that type of protocol as far as its validity in locating fingerprints on smooth magazine paper?
MR. SANGER: I'm going to object. Asked and answered.
THE COURT: Overruled.
You may answer.
THE WITNESS: No, I indicated that that's what would normally be done.
Q. BY MR. AUCHINCLOSS: Is that the protocol that you yourself would use to find fingerprints on such an item?
A. Yes, we have used that protocol --
MR. SANGER: I'm going to move to strike.
That calls for speculation.
THE COURT: Overruled.
Q. BY MR. AUCHINCLOSS: You may answer.
A. Very well. 3342

We had a similar case in our laboratory where exactly the same protocol was followed.
MR. SANGER: I'm going to move to strike as nonresponsive.
THE COURT: Sustained; stricken.
Q. BY MR. AUCHINCLOSS: I'll just ask you to answer this question -- just to satisfy the rules, to answer the question in a "yes" or "no" fashion. Isn't this the type of protocol you yourself would use if you were trying to locate fingerprints on smooth magazine papers?
A. Yes.
MR. AUCHINCLOSS: Thank you. No further questions.

RECROSS-EXAMINATION
BY MR. SANGER:
Q. Okay. Now, you said you have done this a few times in actual cases; is that correct?
A. Yes, sir.
Q. Okay. For the most part, somebody else does this in actual cases, does this -- bringing the fingerprints up either through alternative light source, fluorescence, ultraviolet, super glue, ninhydrin, or one of the other means; is that correct?
A. Yes, sir. They do it, but I consult with them, and they consult with me, occasionally on the 3343

technology that they're using.
Q. Okay. That's fine. And I didn't mean that to be a demeaning-sounding question. I'm just saying as a practical matter, you're not the one out there putting on the rubber gloves and doing this in real cases?
A. Well, I have done that, too.
Q. You have. For the most part, not, correct?
A. Correct.
Q. There you go. All right.
Now, nevertheless, you are aware that fingerprints are the type of evidence that you want to preserve at a crime scene, is that correct?
A. Right.
Q. Okay. And when I say "a crime scene," you understand law enforcement, whatever type of law enforcement, Secret Service, FBI, the Santa Maria Police Department, sheriff's department here in Santa Barbara, whatever, they go to a scene where they think they may be recovering something that's going to have evidentiary value, right?
A. Correct.
Q. And if there's any issue with regard to who may have touched something, you would think, based on your professional experience, that you would want to preserve that very carefully so that if there are any fingerprints there, they will be intact so that they can be made visible and then evaluated by a 3344 latent fingerprint examiner, correct?

A. Correct.
Q. All right. So you would not recommend, for instance, that somebody seize an item and not note for forensics that it should be preserved for fingerprints, right? Is that clear? It was kind of a negative.
Let me rephrase it.
MR. AUCHINCLOSS: I'm going to object as vague.
MR. SANGER: Let me rephrase that.
MR. AUCHINCLOSS: Object as vague and beyond the scope.
MR. SANGER: First of all, I'm withdrawing it. So I can rephrase it, if I may.
THE COURT: Go ahead.
Q. BY MR. SANGER: You talked about the protocol here. You just -- in response to Mr. Auchincloss's question. Part of the protocol is to preserve the evidence, right, so you can get -- you can visualize -- you can make visible the prints that are there, right?
A. Right.
Q. And you would expect that law enforcement, when they are seizing something that may have fingerprints, and fingerprints where identity may an issue in the case, for whatever it's worth, you would expect them to note for the purpose of 3345

forensics that this item is being preserved for fingerprints, correct?
A. I would expect that, yes.
Q. And then you would expect that that item would be carefully handled until fingerprints are taken, correct? When I say "taken" -- fingerprints are developed?
A. Well, you are speaking about an area that we call collection and preservation of evidence. It's like a first part before we enter the part of the development and the part of comparison. There's actually another part if you do comparison with a computer with a set of database. But in any event --
Q. Let's stop there, because that's -- that's like the AFIS system?
A. Yes.
Q. That's at the very end?
A. That's right.
Q. And I just want to focus so we don't lose the jury here. We're at the very beginning?
A. The very beginning, the preservation and collection of evidence. And I get involved in the second phase.
Now, I know some of the rules and regulations about conservation, preservation of evidence, and that is, you know, first of all, don't put your prints on there. Wear gloves. And put it 3346

in a plastic bag. And all depends on the evidence as well. Some people -- well, again, I'll just leave it at that. There's some rules and regulations about how to do this, and people that do crime scene investigations are trained to be able to do this.
Q. All right.
A. You always see them wearing gloves or wearing a handkerchief and picking things up so that they minimize the amount of handling. That's the object.
Q. Because when you get involved as a scientist, your part -- and we understand sometimes you've done it, other times you've supervised, and other times you've studied it. But your part is the visualization of these prints, the science of trying to make the prints more visible, okay? But you are aware of the issue of contamination of evidence, correct?
A. Yes.
Q. And that's something that comes up not only in fingerprints, but comes up with documents, and with fiber comparisons, and all sorts of things; is that right?
A. That's correct.
Q. So the -- it's very important that evidence be preserved as it is found, as best as possible, so that the scientists and the examiner can do their 3347

job, correct?
A. That is correct. That's also part of the chain of custody. That's why we establish things like that, to avoid things of that nature.
Q. When you say "chain of custody" -- we introduced a term here that hasn't been fully explained yet, so I'm going to ask you to do it. When you say "chain of custody," each person who touches the item, or takes the item somewhere, should clearly record what they're doing and make sure that they do not contribute in any way to contamination of that item; is that correct?
A. That's part of the regulations of chain of custody.
Q. All right. So at the very end, when somebody comes into court and wants to say to the Court, and to the jury, and counsel, and the department, and everybody, "Here's this piece of evidence," they can say, "Well, I took it out of the evidence locker today, here it is, and prior to that, I booked it into the evidence locker," or we can bring in a series of people saying, "They were booked in by me, it was taken out by the next witness, it was put back in," so on, correct?
MR. AUCHINCLOSS: I'm going to object as beyond the scope.
THE COURT: Sustained.
MR. SANGER: Okay. 3348

Q. When you're talking about the protocol here, the issue of evidence collection and preservation is something that you're assuming or hoping would be done properly before you would get involved in the case, right?
A. That's correct.
Q. All right. Now, with regard to fingerprints in particular, are you aware of -- let me withdraw that.
Are you aware of an alternative light source process to look at something to determine whether or not there are bodily fluid stains?
A. I'm aware of that, yes.
Q. Okay. I'm not going to ask you to go into that in detail, but tell me -- can you tell me how that works in general?
A. Yes. An alternate light source came into existence after the laser-induced fluorescence was introduced, and that was -- probably goes back to the '70s. But some people said, "I can get the same effect by using a powerful light and just filtering it at a particular color that I want using a device that selectively picks out the frequency that you want."
So the alternate light source is alternate to the laser, basically. And the lights range normally from the blue region all the way to the red region. And depending on which one that you have, 3349

some of them are very selective, like several wavelengths at a time, and a very narrow band. That's terminology used in optics. But in any event, very precise colors is what I'm trying to say.

And what happens with this thing is you illuminate something, and it is possible that that material may have something that glows. You mentioned body fluids. Some of them actually have fluorescence that use goggles that block the illuminating light and you see any of the fluorescence that comes out.

Q. All right. So what color light might you have and what color of goggles, just so we have a picture?

A. I mentioned yesterday that in fingerprints, they usually have one that would be a blue-green light and they use orange goggles.

Q. Just so we have a mental picture, without going into a lot of detail, because I'm sure we'll have more of this later, somebody's got these goggles on that filters the light to a particular wavelength, or filters out other light, however you want to look at it, and they're looking with a light and they're able to see some things you couldn't see if you took the goggles out and just turned the house lights on, correct?

A. That's correct. 3350

Q. And is that destructive -- let's assume
we're looking at magazines. Is that destructive of
the magazine, do you --
A. Normally not.
Q. Okay. So you do not consume the magazine,
you don't interfere with subsequent tests like
fingerprint tests; is that correct?
A. That is correct.
Q. Okay. And that type of a test can be done
quickly, in a matter of minutes, or an hour, or a
couple of hours, right?
A. Yes.
Q. All right. So it's not something that takes
weeks or months to do?
A. Correct.
Q. All right. Now, in a case -- in a case
where there is -- the case is considered to be an
important case, let us say - I suppose all cases are
important to the people involved - you would expect
that fingerprint evaluation would take place sooner
rather than later, right?
A. Right.
Q. You certainly wouldn't want to take, for
instance, a container with all the materials, and
take it to a grand jury and book it into evidence
and then take it out months later and do
fingerprints, would you?
A. Well, let me make a point here, if I may. 3351

Q. Before you make the point, is that what you would prefer to do, or not?
A. Not necessarily.
Q. Okay. You would prefer to do the fingerprint evaluation first, before you go book something into evidence before a body, whether it's a grand jury, a trial court, or anything else, right?
A. Yeah, you would expect to do the analysis first.
Q. Okay. And were you aware that the fingerprint analysis in this case wasn't done for over a year after the items were seized?
MR. AUCHINCLOSS: Objection. Argumentative; beyond the scope.
THE COURT: Overruled.
THE WITNESS: Very well.
First of all --
Q. BY MR. SANGER: Were you aware of that, was the question, sir.
A. I was not aware that they were a year old.
MR. SANGER: Okay. Thank you. No further questions.

FURTHER REDIRECT EXAMINATION
BY MR. AUCHINCLOSS:
Q. Dr. Cantu, assuming that an item of evidence is properly handled with gloves -- and let's narrow 3352

1 our hypothetical to magazines, all right?
2 A. Yes.
3 Q. -- bagged in paper or plastic at the scene,
4 and preserved in that fashion for a period of 8 to
5 12 months, would you expect the fingerprints that
6 might be located on that magazine to disappear
7 during that 8 to 12 months?
8 MR. SANGER: Your Honor, I'm going to object
9 that that is an improper hypothetical and misstates
10 the facts in evidence. Misstates any facts that may
11 be shown in this case.
12 MR. AUCHINCLOSS: That --
13 THE COURT: Overruled.
14 You may answer.
15 THE WITNESS: Fingerprints, I would not
16 expect it to go away. We have had cases -- perhaps
17 you have heard of a fingerprint that's -- you know,
18 a 50-year-old fingerprint. The FBI used to talk
19 about this quite a bit --
20 MR. SANGER: I'm going to move to strike as
21 nonresponsive.
22 MR. AUCHINCLOSS: That's fine. That's fine.
23 I'll --
24 THE COURT: Strike the second sentence.
25 MR. AUCHINCLOSS: All right.
26 Q. Dr. Cantu, why do you say that?
27 A. Which of the statements?
28 Q. You just said you would not expect the 3353

fingerprints to disappear over that period of time, and now I'm asking you to elaborate. Why do you say that?
A. By experience.
Q. Okay.
A. We have studied how long fingerprints last for the ninhydrin process or the amino acid process, and for the physical develop process, which I haven't gone into, but let's say the lipid portion of the wax and oils of the fingerprint, and they last a significant amount of time and can be picked up by the chemical methods that we have mentioned.
Q. All right. And as far as contamination goes, is it fair to say that if a fingerprint is -- well, let me strike that.
Assume you're looking for an individual's fingerprint, a particular individual, Individual X we'll call him.
Is contamination, any form of contamination, going to affect whether or not that fingerprint changes to look like someone else's fingerprint?
MR. SANGER: I'm going to object. The witness -- it's beyond the scope of his professed expertise to do comparison.
MR. AUCHINCLOSS: This is not a comparison question. The question is chemical.
Q. Chemically, based upon --
MR. SANGER: Excuse me, Your Honor, there's 3354

an objection pending.
THE COURT: I'm going to sustain the
objection.
MR. AUCHINCLOSS: I'm sorry?
THE COURT: I am sustaining the objection.
Q. BY MR. AUCHINCLOSS: Okay. Can a
fingerprint of one person morph into that of another
person with the passage of time or contamination?
MR. SANGER: Objection, Your Honor, it's
beyond the scope of his expertise.
THE COURT: He has stated that contamination
is not within his area of expertise, Counsel.
Q. BY MR. AUCHINCLOSS: Is there any chemical
process, irrespective of contamination, any physical
process that you are aware of that will cause a
fingerprint of one person to change and turn into
that of another's?
MR. SANGER: Objection. Comparison is
outside his scope.
MR. AUCHINCLOSS: I'm asking him a chemical
question. That is his area of expertise, the
chemical formation of fingerprints.
MR. SANGER: I object to speaking --
THE COURT: Sustained. The question will be
allowed.
You may answer. Do you want it read back?
Would you like the question read back? You may
answer it. 3355

THE WITNESS: Okay. Sir, chemically, I could only say that the chemicals of the fingerprint residue can possibly change. But as far as the pattern, I don't think so.
MR. AUCHINCLOSS: All right. Thank you.
MR. SANGER: I'm going to move to strike the last part, which he said he doesn't do comparisons.
MR. AUCHINCLOSS: I'm talking -- well --
THE COURT: The objection is overruled.
Motion to strike is denied.
MR. AUCHINCLOSS: Thank you.

FURTHER RECROSS-EXAMINATION
BY MR. SANGER:
Q. Without belaboring this too much farther, there is such a thing as degradation of evidence, correct?
A. Yes.
Q. And degradation basically means that over a passage of time, with or without other factors, evidence can degrade so that the ability to analyze that evidence becomes more difficult; is that correct?
A. Not necessarily.
Q. Excuse me, let me -- I didn't ask necessarily, so let me ask the question again so it's clear.
Degradation involves something deteriorating 3356

over time, correct?
A. Yes.
Q. Okay. And you're familiar with that in all sorts of areas of evidence besides -- other than, let's say, fingerprints, correct?
A. Correct.
Q. Okay. And degradation can take place because the underlying material on which the evidence is deposited starts to degrade, correct?
A. Correct.
Q. Degradation can take place because there is, in fact, a chemical change in - we're talking about fingerprints - the actual fingerprints that are left on the item, correct?
A. Correct.
Q. And just based on degradation, you can end up with a less clear latent print than you might have had, say, a year before; is that correct?
A. Again, I'd say not necessarily.
Q. I didn't ask necessarily. I said, you can --
MR. AUCHINCLOSS: Objection. He's answered the question.
THE WITNESS: I would like to --
THE COURT: Just a moment.
Overruled.
Q. BY MR. SANGER: I'm asking, is that something that's reasonably possible, that over a 3357

period of time, there can be degradation of a fingerprint, a latent fingerprint?
A. It is.
MR. AUCHINCLOSS: Objection; asked and answered.
THE COURT: Overruled.
Answer.
THE WITNESS: It is possible.
Q. BY MR. SANGER: Okay. Now, in addition to that -- or let me stop on that for a moment. Part of what might happen over a period of time is that you lose some part of a detail in a print that might have been recoverable earlier; is that correct?
A. That may happen.
Q. All right. Now, in addition to that, there's contamination besides just degradation of underlying materials and chemicals. There's the possibility of contamination, correct?
MR. AUCHINCLOSS: Objection; beyond this witness's expertise.
THE COURT: Sustained. Sustained. That's the same objection you made earlier.
MR. SANGER: It was, but I thought it was overruled. I thought it was overruled on the contamination issue. Maybe I'm wrong.
Q. In any event, one of the things that you don't want to -- so we're not being too mystical here with the use of the language, one of the things 3358

1 that you -- as a scientist, if the question posed to
2 you is whose fingerprints were on this magazine on
3 November 18th, 2003, you would -- and you have --
4 and you know that there's certain people who are --
5 not by you, but eventually are going to be looked at
6 as possible donors for the fingerprint, you would
7 want to know that that person didn't handle the
8 items in between November 18th, 2003, and November
9 2004, correct?
10 MR. AUCHINCLOSS: Objection; ambiguous.
11 THE COURT: It's not ambiguous, but it is so
12 long --
13 MR. SANGER: That was my last question, too.
14 THE COURT: Would you ask --
15 MR. SANGER: I'll break it down.
16 THE COURT: Just ask the question.
17 MR. SANGER: Okay.
18 Q. Understanding for the moment that the task
19 before long --
20 THE COURT: Wait. Just ask him.
21 MR. SANGER: Okay.
22 THE COURT: The question was -- to get right
23 to the question --
24 MR. SANGER: Yeah.
25 THE COURT: Let me stop this thing.
26 "And you know that there's certain people
27 who are -- not by you, but eventually are going to
28 be looked at for possible donors for the 3359

1 fingerprint, you would want to know" --
2 Here's the question: "Do you want to know
3 that that person didn't handle the items between
4 November 18th, 2003, and November of 2004?" That's
5 the question, without the --
6 THE WITNESS: From the point of view of
7 developing fingerprints, I don't think it matters to
8 me. I just process the fingerprints.
9 Q. BY MR. SANGER: You talked about the -- you
10 talked about the protocol. And the protocol you
11 told us included all of these steps from the
12 beginning of collection of preservation onto the
13 point of comparison, and you're involved in the
14 middle. You said the protocol in this case looked
15 okay, from what you saw, right?
16 A. Yes.
17 Q. Okay. And my question is, you would want to
18 know that one of the subjects did not handle the
19 item in between the time it was seized and the time
20 you're searching for prints, right?
21 A. You would hope so.
22 MR. SANGER: There you go. Thank you. No
23 further questions.
24 MR. AUCHINCLOSS: No further questions.
25 THE COURT: Thank you.
26 THE WITNESS: Thank you, Your Honor.
27 THE COURT: You may step down
28 THE WITNESS: Thank you. 3360

1 THE COURT: Call your next witness.
2 MR. NICOLA: Lisa Hemman, Your Honor.
3 THE COURT: Come to the front of the
4 courtroom, please. When you get to the witness
5 stand, please remain standing. Face the clerk here
6 and raise your right hand.
7
8 LISA SUSAN ROOTE HEMMAN
9 Having been sworn, testified as follows:
10
11 THE WITNESS: Yes.
12 THE CLERK: Please be seated. State and
13 spell your name for the record.
14 THE WITNESS: Lisa Susan Roote Hemman;
15 L-i-s-a, S-u-s-a-n, R-o-o-t-e, H-e-m-m-a-n.
16 THE CLERK: Thank you.
17
18 DIRECT EXAMINATION
19 BY MR. NICOLA:
20 Q. Good morning.
21 A. Good morning.
22 Q. How are you employed, ma'am?
23 A. I work for the Santa Barbara County
24 Sheriff's Department.
25 Q. And what's your current assignment?
26 A. I'm a senior identification technician in
27 the forensic unit.
28 Q. How long have you been with the sheriff's 3361

1 office?
2 A. Eight years.
3 Q. How long have you been an identification
4 technician?
5 A. Eight years.
6 Q. Are you currently working a full assignment
7 with the sheriff's office?
8 A. No. Right now I'm on maternity leave.
9 Q. Congratulations.
10 A. Thanks.
11 Q. Were you involved in handling any of the
12 evidence from the Michael Jackson case?
13 A. Yes.
14 Q. When did you begin your maternity leave?
15 A. December 17th, I believe, was my last day.
16 Q. Of '04?
17 A. Of '04.
18 Q. And what period of time do you recall having
19 any contact with any of the evidence from the
20 Michael Jackson case?
21 A. I was at the initial search at the Neverland
22 Ranch in November of 2003.
23 Q. And what were your duties then?
24 A. I was assigned to search the arcade/cellar
25 building, and then the office that was part of the
26 security building.
27 Q. Okay. Did you seize any evidence yourself?
28 A. No. My assignment during that time was to 3362

photograph any evidence seized.
Q. Okay. When was the next time you had contact with the evidence from that particular search?
A. January 2004.
Q. Do you recall the circumstances around that?
A. Yes, I was asked to examine numerous items, do a cursory search for possible trace evidence and body fluids.
Q. Do you recall which items of evidence you were asked to search?
A. Yes. Can I just pull them off my report so I get them down correctly?
Q. Will it refresh your recollection?
A. Yes.
Q. Please do.
A. I was asked to examine Item 316, 317, 321, 363, and 364.
Q. Could you describe for us briefly what you did with those items, the protocol you used?
A. I was -- I got each item independently, opened up the evidence bag, examined them under white light. They were books and magazines, basically. And then I searched them through ultraviolet light, looking for trace evidence, dried body fluids, or anything that fluoresced that seemed interesting that wasn't there when the book was, or the magazine was originally published. And I 3363

separated those items and sent them off to the Department of Justice for further testing.
Q. When you handled 316, 317, 321, 363 and 364, did you come across, within those evidence bags, multiple items?
A. Yes.
Q. And in the circumstance of a multiple-item bag, what did you do, if anything?
A. When I came across an evidence bag that had multiple pieces of paper, magazines, or books, what I did with them, as I took them out of the bag, I put a small letter with an item number on the back of them, starting with "A." So I put, say, 317 -- 317-A for the first piece of paper. The next piece of paper I came across, 317-B, and would go through the alphabet. And once I completed the alphabet, then I would start with "AA" and so on, and work through.
So each individual piece, it could be a magazine intact, or a clipping, anything that was individual, got a letter put on the back side of it.
Q. How did you handle the magazines or loose papers within those items?
A. I wore gloves, not to transfer anything of mine onto -- I placed each piece of evidence down on a clean piece of butcher paper, and then I examined them with a light source.
Q. Did you at any time photodocument the items 3364

within them?
A. Yes. When I originally took them out of the bag, before I did the examination, I took a photograph of it with a little post-it note saying this is "Item 317-A," and then I'd take the next picture when I examined the next piece of evidence.
Q. Okay. I have a number of exhibits here for you to look at.
A. Okay.
MR. NICOLA: May I show these to her? These are 634 through 709.
(Off-the-record discussion held at counsel table.)
THE COURT: You can give her the documents, but you have to come back to the stand to question her. If you need to stand there for identification of a particular exhibit or something, that's all right.
BY MR. NICOLA:
Q. Do you recognize this item? It's 634.
A. Yes.
Q. How do you recognize it?
A. It's my handwriting saying it's 317-B, and you can also see my handwriting on the bottom corner piece of the paper, saying 317-B.
Q. And you took this picture?
A. Yes.
Q. Exhibit 635? 3365

A. Yes. It's 317-D, with my handwriting also
on the piece of paper.
Q. Okay. Exhibit 636?
A. 317-E, it's the same thing on the paper.
Q. Exhibit 637?
A. 317-G, and my handwriting would be on the
back side of the magazine.
Q. 632, a yellow sticky?
A. Yes, there's a yellow sticky right next to
it.
Q. 638?
A. 317-H, and I see my handwriting on the
bottom corner of the piece of paper.
Q. Okay. Exhibit 639?
A. 317-I, and it's another loose-leaf paper.
Q. Did you take this photograph as well?
A. Yes. 317-J, and it's another piece of paper
I photographed.
Q. It's Exhibit 640?
A. Yes.
Q. Exhibit 641?
A. 317-K, and it's a magazine that I
photographed.
Q. Exhibit 642?
A. 317-O, and it's the same.
Q. You photographed this as well?
A. I photographed it.
317-M, and I photographed that. 3366

Q. Okay. That's Exhibit 643?
A. Yes.
Q. Exhibit 644 --
MR. SANGER: Your Honor, I have two objections. One, counsel is down there and it's hard to hear him. And secondly, I think this is cumulative.
THE COURT: The exhibits are in evidence. Is there some --
MR. NICOLA: There will be in a moment.
THE WITNESS: 317-O --
MR. NICOLA: Would you like me to examine her from down there?
THE COURT: Well, except on specific exhibits where you need to approach, I don't --
MR. NICOLA: I just want to run down through the list so we can move to the next part, Your Honor.
THE COURT: Okay.
MR. SANGER: Your Honor, I don't want to make a speaking objection, but I think I understand the next part. And I don't understand going through every one of these pieces of paper for the next part, which involves 19 pieces of paper.
THE COURT: Your objection is overruled.
MR. NICOLA: Okay.
THE COURT: But I would rather have you question from here. The main reason is that the 3367

audience has a hard time hearing, and we've tried to have everyone speak where there's a microphone.
BY MR. NICOLA:
Q. If you could, please, just read the exhibit number and then the item on the photograph, and let us know whether or not you're the one that took that picture.
A. Okay.
Q. What's the next one in order?
A. Exhibit 644, and I photographed 317-O.
654, and I photographed 317-P.
646, 317-Q.
Exhibit 647, and I photographed 317-R.
648, and I photographed 317-S.
649, and it's exhibit -- or Item No. 317-T.
650, and it's 317-U.
651, 317-B.
652, 317-W.
653, 317-X.
And this is Exhibit 654. I'm unsure what this photograph is as far as what number it was.
Q. May have I see the front of that, please?
A. (Indicating.)
Q. Okay.
A. 655, 317-Z.
656, 317-AA.
657, and I'm unsure of what number it was in 317, but I recognize it. 3368

658, 317-DD.
659, 317-FF.
660, 317-HH.
MR. SANGER: Your Honor, I'm sorry, I'm going to make a slightly different objection. I think the witness is just reading from the exhibits, and they speak for themselves.
THE COURT: She's saying that she took those photographs. That's what I understood.
THE WITNESS: Yes. Yeah.
THE COURT: When she's saying, "I took this photograph," she's just giving you a list. So overruled.
MR. SANGER: All right.
THE WITNESS: Okay.
661, 317-II.
662, 317-JJ.
663, 317-KK.
664, 317-LL.
665, 317-MM.
666, 317-OO.
667, 317-PP.
668, 317-QQ.
669, 317-RR.
670, 317-SS.
671, 317-TT.
672, 317-UU.
673, 317-VV. 3369

674, 317-WW.
675, 317-XX.
676, 317-YY.
677, 317-ZZ.
678, 317-AAA.
679, 317-BBB.
680, 317-CCC.
681, 617-FFF.
And then we moved on to a new item number that I -- another bag I opened up, and this is --
Q. Let me stop you right there.
A. Okay.
Q. That's as far as I wanted you to go for now.
A. Okay.
Q. That long list of exhibits, which item did they come from?
A. They came from 317.
Q. And do you recognize this item, which is marked as Exhibit 470?
A. Yes.
Q. And can you tell us about that, please?
A. This is Item No. 317, and the way I can recognize it is it has my initials on the evidence tape that I sealed it up with after I examined it. It's -- when I first got it, it had evidence tape on it. I broke the evidence tape, opened it up, separated all the items. And when I was finished with it, I placed the items that I did not separate 3370

1 out from this, put my evidence seal back on and
2 signed it.
3 Q. Okay. You mentioned something about
4 separating items out of 317.
5 Would you like me to get that out of the
6 way?
7 A. That's fine there.
8 Yes.
9 Q. Could you explain that for us, please?
10 A. I was asked to do a visual inspection of the
11 contents, and I used an alternate light source which
12 goes into the UV wavelengths. And when you look --
13 search for body fluids, they will fluoresce under UV
14 light, and anything that seemed to fluoresce, it
15 could be body fluids, but it could also be other
16 things.
17 My job was to find items that weren't on the
18 paper when they were published, they were placed
19 there later. It could be anything that fluoresced.
20 And I separated those items out for further testing.
21 And when I did that, I repackaged them into another
22 bag and I sent them to the Department of Justice Lab
23 to find out what those fluids or deposits were.
24 Q. How did you mark on a specific item where
25 you suspected there may be some kind of body fluid
26 or other substance that was foreign to that magazine
27 or picture?
28 A. I sent the entire item to be reinspected by 3371

the Department of Justice. I also put a yellow tab, a post-it note, on the page that I suspected, but I also requested that the Department of Justice reevaluate the entire magazine or piece of paper.
Q. Okay. And did you keep a log of the items that you separated out of the briefcase?
A. Yes. I made a separate property form when I separated items out.
Q. Would you please tell the jury which items --
A. I --
Q. -- you sent to the DOJ and removed from the briefcase?
A. Okay. I separated out 317-B, 317-G, 317-K, 317-L, 317-R, 317-S, 317-Y, 317-BB, 317-CC, 317-EE, 317-KK, 317-RR, 317-UU, 317-YY, 317-BBB.
Q. Okay. The first -- the first item, was that 317-B, as in "boy"?
A. Yes.
Q. How did you package those items to go to the Department of Justice?
A. I repackaged them in a separate evidence bag.
Q. Were any of those items in an evidence bag aside from inside the briefcase?
A. I got them out of the briefcase, separated them and placed them into another bag.
Q. So while they were in the briefcase, they 3372

1 weren't in a bag?
2 A. No.
3 Q. Okay. I'd like to show you Exhibit No. 529,
4 please, and I'd ask you to open up that plastic bag
5 and take the contents out.
6 Do you recognize that item?
7 A. Yes.
8 Q. What is that?
9 A. This is the evidence bag I placed the
10 separated items into. I recognize it, because it's
11 my handwriting, and it should be my handwriting on
12 the seal on the top.
13 Q. Okay. On the front of that bag, did you
14 itemize the items that you had removed from the
15 original 317 and placed into that bag?
16 A. Yes. They are listed on the contents.
17 Q. Are you the first person to use that bag to
18 package evidence from 317?
19 A. Yes.
20 Q. Okay. Do you recall which date you sent it
21 to the Department of Justice?
22 A. On my report I specify it as 2-5-04.
23 Q. Do you have a signed receipt?
24 A. Yes.
25 Q. And what is indicated on the receipt?
26 A. 2-4-04.
27 MR. SANGER: Calls for hearsay.
28 THE WITNESS: 2-4-04. 3373

THE COURT: Just -- overruled. Next question.
Q. BY MR. NICOLA: And how did you deliver the item to the Department of Justice?
A. I delivered it by hand. It came directly from our secure lab to their secure lab.
Q. And to whom did you hand the item?
A. Char Marie, who is a criminalist at the Department of Justice.
THE COURT: All right. Let's take our morning break.
MR. AUCHINCLOSS: May we have just a minute, Mr. Sanger and I?
(Discussion held off the record at sidebar.)
(Recess taken.)
--o0o--

REPORTER'S CERTIFICATE

THE PEOPLE OF THE STATE )
OF CALIFORNIA, )
Plaintiff, )
-vs- ) No. 1133603
MICHAEL JOE JACKSON, )
Defendant. )

I, MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304, Official Court Reporter, do hereby certify:

That the foregoing pages 3324 through 3374 contain a true and correct transcript of the proceedings had in the within and above-entitled matter as by me taken down in shorthand writing at said proceedings on March 24, 2005, and thereafter reduced to typewriting by computer-aided transcription under my direction.

DATED: Santa Maria, California, March 24, 2005.

MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA
SANTA MARIA BRANCH; COOK STREET DIVISION
DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

THE PEOPLE OF THE STATE OF )
CALIFORNIA, )
Plaintiff, )
-vs- ) No. 1133603
MICHAEL JOE JACKSON, )
Defendant. )

REPORTER'S TRANSCRIPT OF PROCEEDINGS

THURSDAY, MARCH 24, 2005

8:30 A.M.

(PAGES 3376 THROUGH 3380)

REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
BY: Official Court Reporter 3376

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1 I N D E X
2
3 Note: Mr. Sneddon is listed as “SN” on index.
4 Mr. Zonen is listed as “Z” on index. Mr. Auchincloss is listed as “A” on index.
5 Mr. Mesereau is listed as “M” on index. Ms. Yu is listed as “Y” on index.
6 Mr. Sanger is listed as “SA” on index. Mr. Oxman is listed as “O” on index.
7 Mr. Nicola is listed as “N” on index.
8
9 PLAINTIFF’S WITNESSES DIRECT CROSS REDIRECT RECROSS
10
11 HEMMAN, Lisa Susan Roote 3389-SA 3424-N 3428-SA
12 3462-N 3465-SA
13 (Further) (Further)
14 MARIE, Charlene 3468-N 3475-SA
15 MARTINEZ, JR., 3479-N 3482-SA Heriberto
16 SUTCLIFFE, 3487-A
17 Timothy
18
19
20
21
22
23
24
25
26
27

1 E X H I B I T S
2 FOR IN PLAINTIFF'S NO. DESCRIPTION I.D. EVID.
3
4 723 Document re: protocol for latent fingerprint processing
5 of magazines 3491 3491
6 725-726 Photos of fingerprints 3505 3510
7 728 Photo of fingerprints 3505 3510
8 729-734 Photos of fingerprints 3506 3510
9 735-740 Photos of fingerprints 3507 3510
10 741 Photo of fingerprints 3508 3510
11 766 Two pages of photos of front
12 cover of each item in evidence bag Exhibit No. 529 taken by
13 Charlene Marie 3472 3474
14 767 Michael Jackson's fingerprint card 3480 3480
15 768 Clear plastic with grid for 3516 3516
16 fingerprinting
17
18
19
20 DEFENDANT'S NO.
21 5006 Timeline (Lisa Hemman) 3397 3423
22
23
24
25
26
27
28 3379

THE COURT: Go ahead, Counsel.
MR. NICOLA: Thank you, Your Honor.
May I approach the witness again?
THE COURT: Yes.
Q. BY MR. NICOLA: There was one item out of
317 I believe I didn't give to you. Exhibit No.
681.
A. That is 317-FFF.
Q. That's also one of the photographs that you
took?
A. Yes.
THE BAILIFF: Mr. Nicola, can you make sure
the microphone's on?
Now it's on. Thanks.
Q. BY MR. NICOLA: You mentioned that you used
an ALS light source, alternate light source --
A. Uh-huh.
Q. -- on the magazines looking for biological
fluids during the break.
Is there a reason for doing that prior to
checking for latent fingerprints?
A. Yes, we wanted to preserve any, if there was
any DNA evidence, and some of the processing for
fingerprints could possibly damage or destroy any
DNA evidence. So if you want to search for DNA, you
search for that first prior to doing any processing
for fingerprints.
Q. Do you do any DNA testing at the Santa 3380

Barbara County Sheriff's Lab?
A. No, we send that off to the Department of Justice.
Q. Okay. Regarding the items that you did not put in the evidence bag that you've described earlier, what did you do with the rest of the items that came out of the briefcase, 317?
A. The items that I did not separate went back into the briefcase. I sealed the briefcase and sent it back to the Santa Barbara Sheriff's property room.
Q. And at the time you placed the remaining items back into the briefcase, were they now marked with the numbers that -- the numbers and letters that you had assigned each of the magazines or pieces of papers?
A. Yes.
Q. Okay. Do you recall when you began your examination of Item 317, the black briefcase?
A. I started my examination on 1-20-04.
Q. How long did it take you to completely photodocument and number what was in there?
A. I completed the entire task when I delivered them to the Department of Justice on 2-5-04.
Q. Okay. So it took you approximately a week and a half?
A. Couple weeks. Yeah.
Q. Okay. While you were processing each of the 3381

items that were in 317, and then you had to go home
at night, what would you do with all the evidence?
A. I'd place them there in -- all evidence that
I took out of the property room goes into our secure
lab. The only personnel that has keys are the three
people that work in our unit.
And then I place them in my cupboard which
is assigned to me and place a piece of evidence tape
over the top of the -- the door so I know that I was
the one who sealed them in there. In the morning,
the seal was still complete, so I would know that no
one has ever looked at them between when I left them
that evening and came back the next morning.
Q. And you kept this going for a couple of
weeks until your task was complete?
A. Yes.
Q. What did you do with the -- it's going
around.
What did you do with the briefcase, Item
317, when you finished putting the material that you
were not going to send to the Department of Justice
back into?
A. It went back to the property room at the
Santa Barbara office.
Q. Did you place any kind of seal on it?
A. Yes.
Q. Is that the one that you pointed out for the
jury earlier? 3382

A. Yes.
Q. And again, what are your initials on that seal?
A. It will be LSRH 2696. 2696 is my assigned body number by the sheriff's department. My I.D. number.
Q. Did you also process Item 321?
A. Yes.
Q. And are those pictures in front of you?
A. Yes. Would you like me to read --
Q. I think there's only a few of them.
A. There's seven, I believe.
Q. Could you tell us the exhibit number?
A. Yes.
Q. And confirm with the item number whether you took the picture?
A. Okay. It's Exhibit No. 682, Item No. 321-A.
Exhibit No. 683, Item No. 321-B.
684, 321-C.
685, 321-D.
686, 321-E.
687, 321-F.
688, 321-G.
Q. Could you please take a look at the photograph depicted in Exhibit 685?
A. Okay.
Q. That's Item 321-D?
A. Yes. 3383

Q. And what is that magazine, please?
A. It's called "Hawk," and it was published in February 2003.
Q. And do you recall the date that you processed that particular magazine?
A. Not without going back to looking at the file in the forensic computer as far as the date I filed them.
Q. And the pictures?
A. In the pictures, yeah. Or the original placard that would have been my first picture.
Q. Could you give us a time frame?
A. It was between 1-20-04 and 2-5-04.
Q. Okay. And Exhibit No. 687, please?
A. This is a "Finally Legal" magazine published in February 2003.
Q. That was tough.
Okay. 321-D, Exhibit 557, for the record, would you please open up that binder? Is that the magazine that you marked 321-D?
A. Yes. I placed the numbers on the back lower corner unless that cover was black, and then I would put the number on the inside of the back cover.
Q. Okay. The page numbers on the sleeves were placed there, I assume, afterwards?
A. By someone else. Yes.
Q. Would you please place that back into its exhibit bag? Can you reach the next bag or did I -- 3384

thank you.
Is that Exhibit 687?
A. No. This one is Exhibit 559.
Q. I understand what I did. The picture is
687, right? Okay. Exhibit 559 is which?
A. It's Item No. 321-F.
Q. Okay. Would you open that up, please? Is
that the same magazine you photographed between
January 20th and February 5th --
A. Yes.
Q. -- of 2004?
Okay. Does that also have your markings on
it?
A. Yes, on the back corner. Right down here.
Q. Would you mind putting those items back in
their bags, please?
Would you please tell us which other
magazines you processed?
A. The next item was 363, and I'm missing "A,"
but do you want me to read the list?
Q. Just tell us what the exhibit is.
A. Okay. The exhibit number is 689, 363-B.
690, 363-C.
691, 363-D.
692, 363-E.
693, 363-F.
694, 363-G.
695, 363-H. 3385

696, 363-I.
697, 363-J.
698, 363-K.
699, 363-L.
Q. And you processed all those magazines?
A. Yes.
Q. I'd like you to take a look, please, at Exhibit 518. Do you recognize the contents of 518?
A. Yes.
Q. What is that?
A. This is 317-R. It's a magazine, a "Barely Legal Hard-Core," published by Hustler that I examined during the time I was there.
Q. Between February 20th -- excuse me -- January 20th --
A. January 20th and February 5.
Q. Of last year?
A. Of last year.
Q. Okay. Do you see any of the post-it notes that you have placed on that magazine initially when you had sent it to DOJ still on there?
A. Yes, there's one actually on the first page.
MR. NICOLA: May she publish to the jury, Your Honor?
THE COURT: Just -- the way we do that is --
MR. NICOLA: Do you want me to do it up here?
THE COURT: Yeah, use the -- 3386

MR. SANGER: I'm going to object if it's
publishing hearsay, for the truth of the matter. I
don't know what's being shown.
THE COURT: Show counsel.
MR. SANGER: That's not the receipt?
MR. NICOLA: No.
MR. SANGER: Okay, that's fine.
Q. BY MR. NICOLA: This is a --
A. It's a yellow post-it note that I placed
there to direct DOJ to examine this page especially,
because I felt that there was something on this page
that fluoresced and could possibly have DNA evidence
on it.
Q. Okay. Did you notice other pages of post-it
notes on there?
A. Yes.
MR. NICOLA: Mr. Sanger?
MR. SANGER: That's fine.
THE COURT: You should state the exhibit
number when you show it.
MR. NICOLA: This is all of 317-R.
THE COURT: The individual pages aren't
separately marked.
Q. BY MR. NICOLA: Page number three?
A. Yes.
Q. And there's the page number.
Did you process any of these items after
they came back from the Department of Justice any 3387

1 further?
2 A. No.
3 Q. Okay. If you could please identify for the
4 record the remainder of those photographic exhibits
5 if you do recognize them.
6 A. Okay. This first picture was not taken by
7 me.
8 Q. Okay. That's 363-M?
9 A. And it's Exhibit No. 700.
10 Q. Okay. Is that 363-M?
11 A. It's 363-M.
12 Q. Okay.
13 A. And Exhibit No. 701, 363-N, as in "Nora."
14 Three -- Exhibit No. 702, 363-O.
15 Exhibit No. 703, 363-P.
16 704, 363-Q.
17 705, 363-R.
18 706, 363-S.
19 707, 363-T.
20 708, 363-U.
21 709, 363-V.
22 THE COURT: Again, she's testifying that she
23 took those pictures?
24 THE WITNESS: Yes.
25 MR. NICOLA: Yes, Your Honor.
26 Okay. I have no further questions, Judge.
27 THE COURT: Cross-examine?
28 3388

CROSS-EXAMINATION
BY MR. SANGER:
Q. Hi.
A. Hi.
Q. What is your exact title with the sheriff's department?
A. I'm a senior identification technician.
Q. So you're in the forensic --
A. Yes.
Q. -- lab?
A. Yes.
Q. And what kind of duties do you have in general?
A. My basic duties are crime scene investigation, latent print searches, latent print comparisons, shoeprint comparisons. I run the Cal. I.D. section. I process evidence. I photodocument victims or suspects. I collect evidence.
Q. Okay. Do you do any other kinds of forensic or scientific tests on evidence?
A. We collect what we think is possible evidence, like body fluids, off -- like blood at a crime scene, stuff like that that could be possibly blood, and then it is sent to the Department of Justice for testing.
Q. Okay. Now, the Department of Justice, we're talking about the California Department of Justice?
A. Yes. 3389

Q. Is that correct? That's a state agency?
A. Yes.
Q. It's not the United States Department of Justice?
A. No, it's California.
Q. And the California Department of Justice has regional labs; is that correct?
A. Yes.
Q. And they have one in Goleta?
A. Yes.
Q. And so when you said you hand-delivered something to the lab, does that mean you went over to Goleta?
A. Yes, I just deliver it to the Goleta lab.
Q. And your office is located in Santa Maria or is it in Santa Barbara?
A. Santa Barbara.
Q. So you basically came across the freeway and took it to the people there?
A. Yes.
Q. All right. The Department of Justice Lab is their Department of Law Enforcement Bureau of Criminalistics, right?
A. Yes.
Q. So they're a lab that's set up to assist law enforcement, like yourself, in doing criminal investigations; is that right?
A. Yes. 3390

1 Q. All right. Now, besides -- you mentioned
2 you're a latent print examiner?
3 A. Yes.
4 Q. Is that correct?
5 And did you participate in fingerprint
6 examinations in this case?
7 A. Yes, I did.
8 Q. And did you do comparisons?
9 A. Yes.
10 Q. All right. When you were out at the ranch,
11 you said you were at the search at Neverland Ranch
12 on November 18, 2003, is that correct, to start
13 with?
14 A. Yes.
15 Q. And your job was to do what again?
16 A. I was to photodocument any evidence seized
17 during -- I was assigned to a search team, and
18 anytime they found a peace of piece of evidence that
19 they wanted to seize, I photographed it before it
20 was seized.
21 Q. And what location were you in?
22 A. I was in the arcade cellar and then the
23 office that's adjoined in the security building.
24 Q. Okay. Mr. Jackson's office?
25 A. Yes.
26 Q. And it's -- sometimes people called it a
27 museum as well?
28 A. Yeah, a museum/office. 3391

Q. A lot of artifacts?
A. A lot of memorabilia.
Q. Did you go into Mr. Jackson's bedroom?
A. No.
Q. Therefore you didn't photodocument anything in the main residence; is that correct?
A. No.
Q. As far as seizing evidence, did you actually seize, touch, package evidence, or just photograph it?
A. Just photograph it.
Q. Now, you were aware that your unit, the forensics unit at the Santa Barbara Sheriff's Department, was going to be involved in some follow-ups based on the evidence that was seized at Neverland; is that correct?
A. Yes.
Q. Did you go to the briefing that was held before the officers went to Neverland?
A. Yes.
Q. And when was that briefing?
A. That briefing was in the -- I think it's the veterans hall that's adjoined in the -- in Solvang.
Q. Okay. Was that the day before?
A. No.
Q. When was it?
A. It was at 6 a.m. the morning of the search.
Q. Okay. The actual morning of the search. 3392

1 And at that time you were given a
2 description by Sergeant Robel and others of the
3 general nature of the investigation; is that
4 correct?
5 A. Yes.
6 Q. So you know what kind of investigation it
7 was?
8 A. Yes.
9 Q. What kind of case? You also were given the
10 names of some of the possible individuals involved
11 in the case; is that correct?
12 A. Yes.
13 Q. Given the name, for instance, of Gavin
14 Arvizo and Star Arvizo?
15 A. Yes.
16 Q. And you were aware that Mr. Michael Jackson,
17 my client, was the focus of this investigation; is
18 that correct?
19 A. Yes.
20 Q. In fact, at that time you were advised that
21 the sheriff's department had already obtained an
22 arrest warrant for Mr. Jackson; is that correct?
23 A. I believe so, yes.
24 Q. All right. So when you went out there to
25 the scene, how many -- approximately how many
26 officers went out to the scene, to the Neverland
27 Ranch, with you?
28 A. I'm not quite sure. Probably 50. 3393

Q. Okay. However many it was, this was a big operation, right?
A. Yes.
Q. All right. And you understood the need to be careful with the evidence and so on?
A. Uh-huh. Yes.
Q. In any case, you want to be careful of evidence, right?
A. Yes, you always wear gloves and you bag it.
Q. In this particular case after you got through photodocumenting evidence at the scene at Neverland, did you return to the sheriff's department?
A. Yes, I did.
Q. That very day?
A. Yes, that evening.
Q. That night.
What did you do with at the sheriff's department?
A. We secured anything that we had in our forensics vehicle as far as equipment. We didn't have any evidence with us. And we went home for the night. It was a long day.
Q. All right. Sounds like a good idea at the time.
The point being that when you went back to the sheriff's department, you had equipment. You had what you started out with? 3394

A. Yes.
Q. But you didn't come back -- you, in your unit, did not come back with any evidence?
A. No.
Q. So the other deputy sheriffs and detectives had custody of whatever evidence you had seen and photodocumented at the time; is that correct?
A. Yes. Yes.
Q. When was the next time that you actually saw any evidence in this case?
A. I'm not quite sure. I was never assigned to work on any evidence until January 20th, but other people in our unit were assigned to conduct searches or photodocument things, and in passing, I could have seen some evidence and --
Q. Okay. Did you -- okay. So you could have seen somebody have something on their desk at the lab or somewhere?
A. Well, inside our lab, that's where we kept most of our evidence.
Q. But you were not assigned to do anything with it; is that correct?
A. No.
Q. So you didn't do anything?
A. I was not assigned to do any work on it until January 20th.
Q. All right. So just to -- other than a passing glance or some casual look at something, you 3395

didn't have any formal contact with any evidence in this case until January 20th of 2004; is that correct?
A. Yes. The only evidence would be photographs, you know, detectives requesting photographs that were taken at the scene, or prior -- or during the investigation, I may have printed them out or downloaded them onto a CD.
MR. SANGER: Okay. Your Honor, what I'd like to do is ask that an exhibit be marked next in order, and we had a gap. We could use that gap, or whatever the clerk wants to do.
THE CLERK: That would be 5005.
MR. SANGER: Okay. Thank you.
And what I'd like to do, with the Court's permission, is first of all approach the witness and hand this to the witness.
THE COURT: All right.
Q. BY MR. SANGER: I placed before the witness, with the Court's permission, Exhibit 5005. And what I'd like to do is put a blank copy, it's just a timeline, up on the screen so we can follow along, if there's no objection.
THE COURT: All right.
MR. SANGER: Oops, you know what? I have the wrong timeline. That will happen. Sorry. We can leave 5005 marked, because I will use it with another witness. Ask that we have this marked as 3396

5006.
THE COURT: Okay.
MR. SANGER: It's that one, sorry.
Okay. Thank you. May I approach again,
Your Honor?
THE COURT: Yes.
Q. BY MR. SANGER: I'm going to trade you
exhibits there, and give you 5006, and we'll save
5005 for another witness.
All right. Does that make sense to you?
It's a timeline. Do you have your --
A. Yes.
Q. Okay. If you look at the board, I have a
blank version up there going through February,
March, April. Actually, it's a little cut off, but
it starts with January of 2003 and goes through
2004.
The first thing I'd like you to do is, on
your copy which is the actual exhibit - this is just
up on the board as a blank - I'd like you to put
your name up there where it says "Witness," if you
would, please.
A. Do you have a pen?
Q. Do I have a pen? Yes, I do. May I
approach?
THE COURT: Yes.
MR. SANGER: Thank you.
Q. All right. And do I understand that your 3397

first contact with the evidence was in November, on
November 18th of 2003?
A. Yes.
Q. And so that would be right about there
somewhere; is that correct?
A. Yeah. Yes.
Q. Could you please make a notation there,
however you want to do it. Just a line, and above
it maybe say "Search," or "First contact," whatever
you'd like, and then tell me what you wrote.
A. "Search."
Q. Okay. The next formal contact you had with
the evidence was then in January of 2004; is that
correct?
A. Yes.
Q. So, could you make a notation there? And
how would you describe that contact? That's when
you were assigned to do the ALS?
A. The visual search.
Q. Okay. All right. Now, in between -- in
between November the 18th and January, when you
checked the evidence out that you told us about, did
you determine that anybody else had broken the seal
on the bag, or, say, broken the seal? Had, for
instance, cut another side open to open it up and
look at it?
A. The first time I saw that evidence was
January, so between November and January, I wouldn't 3398

know, because the first time I ever saw it was January 20th.
Q. I see. So you can't tell us whether or not somebody else checked the evidence out in between to inspect it, or look at it, or do something with it?
A. There should be the original seals. You never take another person's seal off an evidence item number. So whoever's opened that briefcase will have their seal on the briefcase, and so you can -- and -- so --
Q. All right. You're saying "briefcase." And you're looking somewhere. Is it right down there?
A. Yeah, it's the briefcase.
Q. It's underneath the table?
A. But in the evidence bag, every time you open the evidence bag, you got to open it an original way. You can't open up someone else's seal. So you cut it down the sides, on the bottom. You got to be creative when it gets opened multiple times, but there's always a new seal every time you open it and close it back up.
Q. You start out with a bag; has no seals on it. Whoever puts it in first, puts a seal on it, right?
A. Yes.
Q. And then the next person to open the bag would cut the side or the bottom or someplace where there's -- 3399

A. Different.
Q. -- there's otherwise not an opening?
A. Yes.
Q. Right? And then when they're through, if they do it right, they'll seal it up and put their initials and date on it, right?
A. Yes.
Q. They should document all this in reports; is that correct?
A. Yes.
Q. So my question was, based on your observations, if you can remember -- and we can take Exhibit 470, which is the briefcase, Sheriff's Item 317.
A. Yeah.
Q. Okay. And you looked at that for the first time, the first time ever you looked at that was January of 2004, correct?
A. Yes.
Q. January 20th?
A. Yes.
Q. All right. When you looked at it, my question was -- and perhaps I wasn't clear. When you looked at it on January 20th, 2004, did you determine that more than one person had sealed the bag up?
A. I would have to look at my original -- I also photographed it prior to opening it, so I would 3400

have to look at my photograph to determine that.
Q. Can you -- is that possible? Would that refresh your recollection?
A. Yes.
Q. Do you have it here where you can look at it?
A. Uh --
Q. It's one of the exhibits?
A. I don't have it with me, no.
Q. Okay. All right.
So for the purposes of the jury, or anybody else that wants to look at it, we could look at the bag, and presumably there would be some other seal on there if somebody else looked at it in between?
A. Right.
Q. All right. Now, when you opened -- let me withdraw that.
As you sit here today, then, you cannot tell us whether or not anybody did anything with that evidence between seizure on November 18 and January 20th of 2004, correct?
A. No.
Q. Okay. At the time that you inspected the contents of Exhibit 470, which is Item 317 --
A. Yeah.
Q. -- you opened the bag, right?
A. It was not in the bag at the time. It was just a briefcase with the seals over the locks. 3401

1 Q. I see. Okay. So you would have to look at
2 the seals on the locks on that, not on the bag?
3 A. Yes.
4 Q. Okay. Well, then we have the briefcase --
5 A. But there's probably been multiple ones
6 after me, maybe. I don't know.
7 Q. Let's start with 470. Is it under the table
8 here someplace?
9 MR. NICOLA: It's right in front, Mr.
10 Sanger.
11 MR. SANGER: May I approach and retrieve it?
12 THE COURT: Yes.
13 Q. BY MR. SANGER: Okay. I'm going to just
14 hand you 470 and go back to where I was.
15 I'd ask you to inspect that.
16 A. Okay.
17 Q. And see if, by looking at the whole thing,
18 you can tell what happened between November 18 and
19 January 20th of 2004.
20 A. Okay. This would be the last seal on it,
21 and this was 12-03-04, because it's the last one on
22 the outside. Let me work down.
23 Q. So while you're doing that, in other words,
24 the bag doesn't help you answer the question --
25 A. No.
26 Q. -- because that's a later addition.
27 A. There's a seal from 11 -- and unfortunately,
28 it's 11-03, and it's after the initial ones, and I 3402

1 can't quite tell whose it is.
2 There's one on 1-14-04.
3 And then there's one on mine, which I sealed
4 up on 1-26-04.
5 And then the one -- oops, sorry.
6 And then the top one, 11-26-03.
7 Q. And so the first seal --
8 A. The first seal is the yellow one that's
9 underneath all the red ones.
10 Q. So you would -- based on your experience,
11 you would say that the yellow seal represents --
12 A. The original seal.
13 Q. -- the sealing on November 18, 2003?
14 A. Yes.
15 Q. And then you see at least one seal from
16 later in November of 2003; is that correct?
17 A. Yes.
18 Q. So that implies, or suggests to you, based
19 on your training and experience, that somebody broke
20 the yellow seal, opened the briefcase --
21 A. Yes.
22 Q. -- and then resealed it?
23 A. Resealed it.
24 Q. And how many other -- or were there any
25 others between then?
26 A. Yes, there's one other. 1-14-04.
27 Q. Okay. So on the 14th of January, 2004,
28 somebody else apparently did the same thing, which 3403

1 was at least open the briefcase and then reseal it?
2 A. Yes.
3 Q. And you don't know what any of those people
4 did with the contents of the briefcase during those
5 two incidents in between the original seizure and
6 January 20th?
7 A. No.
8 Q. Looking at your seal on there, does that
9 refresh your recollection when you concluded working
10 with that evidence?
11 A. Yes, I sealed it back up on 1-26-04.
12 Q. So you had the evidence for about a week; is
13 that correct?
14 A. Yes.
15 Q. Took it out on 1-20, opened it up, did the
16 things we'll talk about, which we'll go into in a
17 moment, and then you resealed it on the 26th?
18 A. Yes.
19 Q. So you delivered it to the Department of
20 Justice crime lab across the freeway, you said, on
21 February --
22 A. 5th.
23 Q. -- 5th, but it was already sealed for a week
24 or so by the time you delivered it, right?
25 A. Yes. Well, this would have gone back to the
26 property room. The separated items were kept in our
27 secure lab behind my cupboard until I finished
28 processing all the other items in there. 3404

Q. And then you went back to the property room and checked that out? No?
A. No. This did not go to the Department of Justice.
Q. Oh, that did not go to the Department of Justice. Okay.
So the other items -- I'm sorry, the other items you took out went to the Department of Justice?
A. Yes.
Q. And this -- on the 26th, then, this just --
A. Got returned to the property room.
Q. This was -- this was returned to your property room in the sheriff's department?
A. Yes.
Q. Okay. Good.
So now, having refreshed your recollection with all that, as far as Item 317 of the sheriff's department, Exhibit 470, it took you about a week to go through all the evidence in there and photograph it and number the back of each item; is that correct?
A. Yes. Along with this -- I did this during that week, and then the other items after that.
Q. Okay. So your answer was correct?
A. Yeah.
Q. -- to the question that I asked?
A. Yeah. 3405

1 Q. You took about a week to go through this
2 particular item, 470, Exhibit 470, Item 317, right?
3 A. Yes.
4 Q. And during the time that you went through
5 there, what kind of a test did you do? This is when
6 you did your alternate light source?
7 A. Well, I first opened it up, noticed that
8 there was numerous items inside the briefcase. And
9 I like to assign them a letter, and we discussed it
10 with the other people processing other evidence that
11 we would assign it a letter so it would be a
12 reference number for us so we could identify each
13 piece individually in that item number.
14 I went through from top to bottom, labeled
15 them all with 317-A, on through FFF, I believe. And
16 then took each piece, photographed it, and then
17 examined it under white light and then under the
18 alternate light source, using goggles, and searching
19 each page by page.
20 Q. All right. So when you got through doing
21 that, you put it back in the briefcase. Did you put
22 it back in the same order or --
23 A. Yes.
24 Q. You didn't shuffle it up?
25 A. I did not shuffle it up.
26 Q. Okay. So, you put it -- do you remember
27 which magazine was on top?
28 A. Not offhand. I think it was a loose piece 3406

of paper or something, yeah.
Q. Okay. In any event, whatever it was, you put it back in the same order, and then you sealed it, right? Sealed the actual --
A. I wouldn't seal the briefcase. I sealed my cupboard, because I was -- it was open so I could examine each piece. We would have a bazillion --
Q. All right. Thank you.
A. So I --
Q. I may not be communicating well.
A. When I finished with it for the day, I would place it, with the seal broken, inside the cabinet and then I'd place a seal over my cabinet door.
Q. All right. I understood that, so what I was asking, though, is when you were through at the end of the week's time on the 26th, you then resealed, put your own tape on the briefcase itself?
A. Yes.
Q. And took that back to the sheriff's booking; is that correct?
A. The property room, yes.
Q. Or -- sorry, the property room where you book the evidence in, right?
A. Yes.
Q. So could you indicate "January 26th" on your timeline there, "returned," wherever you want to put it there in January 2004, and that's when you returned the item to the sheriff's evidence room? 3407

A. Yes.
MR. SANGER: Okay. Your Honor, I believe Exhibit 86 was already received into evidence. And I would like to put that on up the board for the purpose of asking questions.
THE CLERK: On March 7th.
THE COURT: Yes, it was.
MR. SANGER: May I do that?
THE COURT: Yes.
MR. SANGER: Thank you.
Q. This is Exhibit 86. Do you recognize the subject matter in Exhibit 86 that's in evidence?
A. Yes.
Q. Does that appear to be the contents of the briefcase?
A. Yes.
Q. Is that the way it looked when you opened the briefcase the first time on January the 20th of 2004?
A. Well, I can't say the order, because it's been a long time, but there was loose papers and things up in the top area where there's a divider, and then there was papers and magazines in the entire briefcase, yes.
Q. And you remember there being some loose pages --
A. Yes.
Q. -- of the magazines on top of the actual 3408

1 stack of magazines in the briefcase, correct?
2 A. Yes.
3 Q. So therefore this was not -- this was not
4 the way that it looked when you opened it up on the
5 20th?
6 A. Well, the top -- what I consider the top is
7 the pocket right up on the top. There's a little
8 divider pocket. That's what I considered the top,
9 and I cannot see that in this picture.
10 Q. Okay. I'm asking about the magazines
11 stacked in there. I think earlier you said you
12 believed there was some loose papers on top of the
13 stack of magazines.
14 A. Yes, but I consider the top being the
15 closest to the top of the briefcase.
16 Q. So you mean in the top pocket of the
17 briefcase?
18 A. Yeah. I started up there with "A" and
19 worked through.
20 Q. Okay. Do you recall what magazine was on
21 the top of the stack of magazines in the briefcase?
22 A. No.
23 Q. All right. So you did not take this
24 picture, did you? You don't know if you did or not?
25 A. No, I did not.
26 Q. So you don't know when that was taken --
27 A. No.
28 Q. -- or what it represents, except it appears 3409

to be generally the same briefcase, right?
A. Yes.
Q. Okay. Do you know -- actually let me just put that up one more time. This "Barely Legal" magazine that's on the top, do you know what number you gave that?
A. Not without looking at it back on my original photographs.
Q. Can you do that easily?
A. There's a stack of photographs right there.
MR. SANGER: May I approach, Your Honor?
THE COURT: Yes.
THE WITNESS: I believe there was 58 pieces of either magazines or evidence in 317, so I cannot remember the order.
Q. BY MR. SANGER: Okay. Is that -- by the way, you looked at the materials in the briefcase?
A. Yes.
Q. While you're looking, I'll ask you a question here.
The materials in the briefcase are lawful to possess by an adult in California; is that correct?
A. I believe so, yes.
Q. Most of it's commercially available in one sense or another?
A. In one sense or another, I guess, yeah.
Q. In other words, some you can buy at a newsstand. Others you might have to buy at a 3410

specialty store of some sort, but they're available, right?
A. Yes.
Q. Were you able to find that -- yeah. Were you able to find the magazine that I asked about?
A. I believe so, if you can show me that original photograph.
Q. Sure.
A. Do you mind if I put this back up? It's Exhibit 86.
THE COURT: You may.
Q. BY MR. SANGER: Thank you. I'm showing you Exhibit 86. By the way, do you know who took this photograph?
A. I did.
Q. Oh.
A. Oh, not that. I took this photograph. I didn't take that picture. I do not know who took that photograph.
Q. Okay. For the record, when we say "this" and "that," it later makes absolutely no sense if anybody wants to read it.
So Exhibit 86 that we put up on the board that you're referring to, you do not know who took that photograph, correct?
A. No.
Q. And I said "correct." Let me try it again.
Do you who took Exhibit 86? 3411

A. No, I do not.
Q. And then you have in front of you a photograph.
A. And this is Exhibit 644, and this is a photograph I took.
Q. Okay. And you took that photograph?
A. And this is 317-O.
Q. Okay. 317-O. So based on the lettering system that you had, if you started lettering from the pocket of the briefcase --
A. Yes.
Q. -- can you tell us whether or not that was on the top of the stack?
A. No.
Q. Okay. So you either had -- I don't know what letter of the alphabet O is, somebody will yell it out probably, but A through O --
A. A through -- yeah.
Q. Or A through N, and then it could or could not have been in the pocket, but they preceded your documenting that one. Okay.
All right. I've removed 86, so we still have the timeline up there. And if the Court wants the lights turned on for a moment, we can proceed and come back to this in a moment.
Okay. Now, the alternative light source that you used during that one-week period from January 20 to January 26th was for the purpose of -- 3412

oh -- was for the purpose of determining whether or not there was bodily fluids?
A. Or any trace evidence, hair, fibers.
Q. And an alternative light source, can you describe that briefly?
A. Yes. What --
Q. Let me stop you for a second. We've already had a little testimony. What color is it, and did you wear goggles, or was there a different color? What did you do?
A. Yes, it's basically a light source that goes through numerous wavelengths, mainly in the UV, and I wore orange goggles which narrows the band down and helps you see things fluoresce, or absorb the light, turn dark. And so basically I just went page by page, wearing those orange goggles, and using the UV light and examining each piece of paper.
Q. All right. Is this destructive of the evidence to do that?
A. No. The CSS -- the light source has dials on it, which dial each wavelength, and the CSS is the one that we use mainly for searching for body fluids, and that one is not, as far as I know, destructive to DNA evidence.
Q. Okay. It's not destructive to the paper?
A. No.
Q. Okay. So when you do an alternative light source examination of that sort, you can then do 3413

other tests on the materials --
A. Yes.
Q. -- freely thereafter, right?
A. It's harmless to the evidence that we looked at.
Q. All right. Now, you are a latent print examiner, you told us?
A. Yes.
Q. And that means that you have training and experience in examining fingerprints and then comparing them to known prints; is that correct?
A. Yes.
Q. Did you examine these documents for fingerprints?
A. I did not examine -- I looked for fingerprints, visible fingerprints, but until you -- I did find one fingerprint on, I think it was UUU, or -- I can't remember. But it was just a partial print. I don't think it was comparable.
Q. Okay. So with regard --
A. It was visible. A latent print is something that you can't see without processing.
Q. I was just going to let you explain that. You have three kinds of prints that you find. One would be a visible print, where somebody sticks their finger into wet paint or blood or something, and it's just sitting there and you can see it with your eyeballs, right? 3414

A. Yes.
Q. And then you have a plastic print where somebody puts their print into clay, or -- well, silly putty wouldn't last very long, would it? Or clay or putty of some sort, and it actually reflects the ridges in three dimensions; is that correct?
A. Yes.
Q. And then you have the latent prints?
A. Yes.
Q. And the latent print -- the latent print, you're likely to find more latent prints than you are the other two varieties; is that correct?
A. Most of the time, yes.
Q. Okay. And in order to determine if there are latent prints, you can use various technologies to try to develop those prints, either using light sources or using chemical technology; is that correct?
A. Yes.
Q. All right. Now, you did not use any chemical technology in January of 2004 to attempt to find fingerprints on these documents?
A. No.
Q. And did you use a RUVIS system or a Scenescope system in January?
A. I used a -- no, not a Scenescope. I used their alternate light source that they provide us.
Q. There's a company that makes Scenescope. 3415

They've had different names, but it was Crimescope at one time, right?
A. Yes.
Q. And the official brand name, or whatever it is, of Scenescope is their RUVIS system; is that right?
A. Yes.
Q. You are referring to something.
A. Yes. This is actually the manual to the Scene -- the ALS that I used.
Q. Okay. And what was -- now you've --
A. This is made by Jovinyvon --
Q. Okay. The court reporter is going to want to know how to spell that. You may as well spell it now, while you have a chance.
A. It's J-o-v-i-n-y-v-o-n, and the bottom name is H-o-r-i-b-a.
MR. SANGER: May I approach, Your Honor, and look at that?
THE COURT: Yes.
MR. SANGER: Don't put it away until I look at it. I just want to get a quick look of what you referred to, if I may.
THE WITNESS: I need to have it back. That's the only one I have.
MR. SANGER: I'm not going to take it.
Q. All right. Having refreshed your recollection on that, that is a -- the brand name 3416

for that particular alternative light source is the Crimescope, right?
A. Yes.
Q. And, in fact, that was a mini Crimescope?
A. Yes.
Q. All right. So Crimescope alternative light source. Scenescope is the special UV fingerprint scope; is that correct?
A. Yes.
Q. All right. So, you did not use the Scenescope in January of 2004?
A. No. I did not use the Scenescope, no.
Q. When you were using the Crimescope -- after you used the Crimescope, do you know if anybody had requested that you or another sheriff's department employee do a fingerprint examination on these documents?
A. Yes.
Q. When did that occur?
A. It started in late spring, summer, 2004.
Q. All right.
A. I believe.
Q. Okay.
A. Not by myself, so I'm not quite sure of the date.
MR. SANGER: Okay. Can we put the light back on; if that's all right? And I have the blank form up here. It's Exhibit.... 3417

Q. Were you aware that there was a grand jury proceeding in this case?
A. Yes.
Q. Do you know roughly when that was?
A. April?
Q. March and April of 2004 --
A. Yeah.
Q. -- something like that?
Could you mark on your chart there, in the general vicinity of March and April 2004, "Grand jury"?
A. I'm marking "Grand jury."
Q. All right. Thank you.
And do you know if Exhibit 317 -- let me withdraw that.
Did you take possession of Exhibit 470, which is Sheriff's Item 317, at any time between January the 26th, 2004, and the time of the grand jury?
A. No.
Q. Do you know if anybody else did?
A. Not offhand --
Q. All right. Were you --
A. -- no.
Q. Were you aware that Exhibit 470 and its contents was introduced into evidence at the grand jury?
A. Not personally. I -- 3418

Q. Did you come to be aware of that later?
A. Yes.
Q. All right. So it's your best understanding right now that it was an exhibit in the grand jury; is that correct?
A. As far as I know, but I don't know personally.
Q. Okay. Now, when you got through on January the 26th of 2004 with your examination, other than the items that you took out, separated out, to take to the crime lab, the rest of the items were simply put back in the briefcase, correct?
A. Yes.
Q. There was no individual packaging?
A. No.
Q. There weren't -- each item wasn't put in a plastic sleeve or anything like that?
A. No.
Q. They were put in, much like we saw in Exhibit 86?
A. Yes.
Q. After the grand jury, when did you next see Exhibit 470, Item 317, or its contents?
A. I was never assigned to do anything with 317 after I finished with it. I know it was processed for fingerprints later, late spring, August, by other people in my unit, but I had nothing to do with it at that point. 3419

Q. Okay. Did you have anything to do with the fingerprint comparison?
A. Yes. And those were photographs.
Q. You took photographs?
A. No, I examined photographs of latents.
Q. I'm sorry. So you were presented with latent prints by way of photographs?
A. Yes.
Q. And were they digital photographs or filmed?
A. Digital.
Q. And was it your understanding, based on what you were asked to do, that you were presented with photographs that were taken with the assistance of the Scenescope?
A. Yes.
Q. Did you have anything to do with the super glue fuming or ninhydrin process in developing this paper?
A. No, I was pregnant at the time and trying to avoid the chemicals.
Q. Okay. That's a good idea. Okay. So your next involvement was then looking at photographs, and when was that, do you recall, that you were asked to look at the photographs of latent prints?
A. I started late summer, early fall examining photographs that were taken by other members of the forensics unit. 3420

Q. Did you have meetings with other members of the forensic team to discuss the photographs?
A. Yes.
Q. Now, you say you're a latent print investigator by training and experience; is that correct?
A. Examiner, yes.
Q. What did I say?
A. "Investigator."
Q. I meant "examiner," I'm sorry. LPE, Latent Print Examiner.
Do you have any certifications in that regard?
A. No, I have --
MR. NICOLA: I'm going to object. It's beyond the scope, Your Honor.
THE COURT: Sustained.
Q. BY MR. SANGER: Following the time that you looked at the photographs as a latent print examiner, did you have any other contact with Exhibit 470 or the contents, which would have been Item 317?
A. No. Other than photographs, no.
Q. Okay. Other than looking at photographs, you didn't take more photographs?
A. No.
MR. SANGER: May I have just one moment, Your Honor? 3421

Q. Oh, by the way, the DNA, you said you sent some things off for DNA testing; is that correct?
A. Yes.
Q. And you are aware that subjects that were being compared to anything that may or may not have been found, or anything that may have been found, included Gavin and Star Arvizo; is that correct?
A. Yes.
MR. NICOLA: Objection; compound.
THE COURT: Sustained.
Q. BY MR. SANGER: Were you aware that one of the subjects who was a subject to compare any substances found was Gavin Arvizo?
MR. NICOLA: Objection; lack of foundation.
THE COURT: Overruled.
You may answer.
THE WITNESS: When I sent these off to the lab, I believe my request was to be compared to the defendant.
Q. BY MR. SANGER: Do you know if that original request was superseded?
A. I don't know.
Q. So you're not aware of whether or not Gavin Arvizo's DNA was searched for in various items of evidence in this case?
A. No.
Q. Same question pertaining to Star. Would I get the same answers? 3422

A. Yes.
Q. You're not aware of any matches that have been made to Gavin or Star Arvizo's DNA in this case, are you?
A. No, I do not.
Q. Okay. Thank you.
Subject to re-call on those issues that we can't go into now, I have no further questions at this time.
THE COURT: All right.
MR. SANGER: Excuse me. And I would move -- 5006 I believe is up there. I'd move that in evidence, if I may, please.
THE COURT: It's admitted.
MR. NICOLA: May I see it first, please, Your Honor?
THE COURT: Yes, you may.
MR. SANGER: That was kind of a pig in a poke. I didn't look at it either. So maybe I should look at it.
THE COURT: It's too late. It's in evidence.
(Laughter.)
MR. NICOLA: (To the witness) You could have been a doctor.
May I project 5006, Your Honor?
THE COURT: Yes.
//
// 3423

REDIRECT EXAMINATION
BY MR. NICOLA:
Q. I can't write on that diagram so I'll just ask you some questions about it.
In between -- excuse me. In between January 26, when you sealed up Item 317, the briefcase --
A. Yes.
Q. -- and the grand jury --
A. Yes.
Q. -- do you know where the evidence items were that you removed and had sent to the Department of Justice?
A. I --
MR. SANGER: Calls for speculation.
THE COURT: She can answer that "yes" or "no."
THE WITNESS: As far as I know, I left it --
THE COURT: Just "yes" or "no." Do you know where they were?
THE WITNESS: Yes. Yes.
Q. BY MR. NICOLA: Were they in the briefcase?
A. No.
Q. Do you know where they were?
A. They were sent to the Department of Justice Lab in Goleta.
Q. So as far as you know, Exhibit No. 518, which you've previously identified as being in the 3424

bag that went to the Department of Justice, as far as you know, that didn't go to the grand jury in that briefcase?
A. It was separated out from the briefcase, so it couldn't have gone in the briefcase.
MR. SNEDDON: Excuse me.
Q. BY MR. NICOLA: I'd like to show you Penal Code Section 313.1, and ask you to read it to yourself, subparagraph (a).
MR. SANGER: I'm sorry, I -- is this to refresh recollection? If it's not, it's improper.
THE COURT: It's improper to read in court?
MR. SANGER: That's such a good straight line, there's got to be an answer, but I don't have one, Your Honor.
It's not proper to have the witness read something unless there's a foundation laid refreshing recollection. She's being asked to read a law book.
THE COURT: I've never heard that objection.
Q. BY MR. NICOLA: Have you read it?
A. Sort of.
MR. SANGER: Object. Irrelevant; "Have you read it?" It's got to be relevant to something, refreshing recollection.
MR. NICOLA: It will be, Your Honor. And if it's not, then the Court won't let me ask the question, I'm certain. 3425

THE COURT: The objection is overruled.
THE WITNESS: Okay.
Q. BY MR. NICOLA: Finished reading?
A. Yes.
Q. Okay. Mr. Sanger elicited from you the opinion that possessing the kind of material that you found in the briefcase is generally lawful. You gave him the opinion that you thought it was.
A. Lawful to own by an adult.
Q. If that material were shown to a minor --
A. I believe --
MR. SANGER: Objection, Your Honor. Calls for a legal conclusion.
THE COURT: It's rebuttal to your question, Counsel.
THE WITNESS: It would be illegal --
THE COURT: You may answer.
THE WITNESS: It would be illegal to the minor.
Q. BY MR. NICOLA: And that's Penal Code Section --
A. One -- 313.1(a).
Q. When you -- when you participated in the fingerprint work in this case later on in 2004, were you the partner of anybody in particular?
A. Yes. I was partnered up with a retired sergeant, Bob Spinner.
Q. And is he the person tasked with making the 3426

analysis of the fingerprint comparisons in this case?
A. Yes. He was the initial and I was the verifier.
Q. And is that a standard protocol?
A. Yes. We used -- every time we've made a fingerprint, we always have two people examine it independently. That way we hopefully won't make a mistake.
Q. To your knowledge, were the fingerprints of any minors recovered from Item 317-R?
A. I'll need to check a list.
MR. SANGER: I'm going to object that there's a lack of foundation at this point.
THE WITNESS: Yes.
THE COURT: Just a moment.
MR. SANGER: I'm going to withdraw the objection, Your Honor.
THE COURT: All right.
THE WITNESS: Yes, there were some.
MR. NICOLA: Okay. It's a "yes" or "no."
THE WITNESS: Yes.
MR. NICOLA: Okay. I have no further questions, Your Honor.

RECROSS-EXAMINATION
BY MR. SANGER:
Q. Well, first of all, before we get into the 3427

last area, the identification of the fingerprints - and I think we can turn off the screen if you - the District Attorney asked you to read a section out of the Penal Code, I guess. Is that what he did?
A. Yes.
Q. All right. And you would agree that you're not a lawyer, right?
A. Yes.
Q. And -- you could be, actually. I shouldn't have put it that way. But you aren't, it turns out.
A. I'm not a lawyer.
Q. Okay. And you're not offering an opinion as to what Mr. Jackson is charged with in this case, are you?
A. No.
Q. And as far as you know, he is not charged with the code section that you were asked to look at?
A. As far as I know, no.
Q. Okay. And in fact, the kind of material that if adults possess it - that's all I asked was if adults possessed that kind of material - there's nothing illegal about simply possessing that kind of material, true?
A. True.
Q. Okay. Now, going back to your fingerprint testimony, I would like to ask you some questions, then, about your experience and training in 3428

fingerprints. So are you certified by any
organization? I think you told us that you are, by
training and experience, a latent print examiner.
A. I am trained in -- with experience, a latent
print examiner.
Q. So are you certified by anybody or any
association as a latent print examiner or anything
else in that category?
A. No.
Q. Are there bodies that certify people as
latent print examiners?
A. Yes.
Q. And what bodies are those, for instance?
A. International Association of Identification
I'm a member of, but I have not taken the test
through them. It's not a requirement of our
department.
Q. Okay. Are you familiar with SWGFST,
S-W-G-F-S-T?
A. Yes.
Q. And what's that?
A. Scientific Working Group, Finger -- I
can't -- it's a fingerprint group --
Q. Okay.
A. -- that sets basically the guiding rules of
fingerprint examiners.
Q. Sets forth the standards for --
A. The standards. 3429

Q. Right. And are there any other groups that you're aware of that are specifically oriented towards fingerprint examiners?
A. Yes. There's SCAFO, which is Southern California Association of Fingerprint Officers. There's numerous -- IAI State Division. There's the California Division of IAI. IAI is International Association of Identification, but they have little subgroups, and then in any major city you find smaller groups.
Q. So people, latent print examiners, kind of get together and they have seminars from time to time?
A. Yes.
Q. Talk about what they're doing; is that correct?
A. Yes.
Q. And you're not certified by any of those organizations or licensed; is that correct?
A. No, but I do go to their meetings.
Q. Okay. Now, in that regard, there are three aspects to latent print examination; is that right? Let me back up before we get to that. There are three -- there are three principles to the underlying concept of latent print comparison; is that right?
MR. NICOLA: Objection, Your Honor; beyond the scope. 3430

THE COURT: Overruled.
THE WITNESS: As far as --
Q. BY MR. SANGER: Well, let me suggest, the reason that you examine latent prints and compare them to what's called a known print --
A. Yes.
Q. -- is to try to make a determination, the best you can, as to whether or not the same person gave the latent print who gave the rolled print, right?
A. Yes.
Q. And generally when you have a rolled print, that means you had somebody there with -- a law enforcement officer rolling their prints?
A. Yes.
Q. Okay. And so there's some form of identification, often a picture, right?
A. Yes.
Q. So that way, you want to be pretty sure that the rolled prints belong to the person that --
A. Yes. They're usually -- there's the demographical information attached to the card.
Q. So that's rolled prints.
Now, the latent prints are the ones that randomly show up in evidence that you're asked to inspect; is that correct?
A. Yes.
Q. And those prints may be partial prints; is 3431

that correct?
A. It can be partial. They mainly are partial.
Q. That's what I was going to say. You don't -- what you call a "ten print," whereas you have somebody who's got ten fingers, they do the whole --
A. Yeah, you roll from nail to nail. And usually you don't go and pick up pieces of paper and items going like this (indicating). You touch it, and that way you get a partial print.
Q. And sometimes partial prints are obscured by imperfections in the surface; is that right?
A. Yes.
Q. And sometimes partial prints are obscured because somebody has smeared the print?
A. Yes.
Q. All right. Now, the basic principles I was getting at are that, number one, fingerprints are more or less permanent for an individual; is that correct?
A. Yes. They start at 12 weeks in the womb and they're the same until you die.
Q. All right. Now, there are some ways to -- for fingerprints to actually change during the course of somebody's life; is that correct?
A. Change -- you add things to it, like scars, marks, you know, warts can alter, but they're not altering the fingerprint. They're just -- they're 3432

adding to the --
Q. All right. It's a matter of semantics, I suppose. But the ridge lines, when you're talking about fingerprints, those are sometimes what are called friction ridges; is that correct?
A. Yes.
Q. And those are the ridges, when you look at the pictures on the screen there, you'll see that they go -- it's not there. We have seen the picture up there. You might see hoops or whorls.
A. Loops, whorls or arches.
Q. I'm sorry. Loops, whorls or arches. I said "hoops." All right. Loops, whorls, or arches. Those are the three main configurations of prints?
A. Yes.
Q. And then you're going to see a lot of individual characteristics; is that correct?
A. Yes, which we call minutia.
Q. So, for instance, something like 65 percent of the population have whorls; is that right?
A. No, loops.
Q. Loops. Okay. 35 percent whorls. See if I get that right.
A. Yes. Approximate. In that area.
Q. But large parts of the population have loops or whorls, so that isn't going to get you too far, right, in making an actual comparison?
A. No. That's your initial pattern of 3433

recognition.
Q. And then to get to a better comfort level to say that you have some kind of identification, you need to look at the minutia, which are the very small individual characteristics; is that correct?
A. Yes.
Q. Now, those small individual characteristics can change, as you indicated, based on scarring or warts or some other kind of deformity over a period of time?
A. They don't change. They're more -- the scar is actually added into the original pattern.
Q. All right. But one of the basic premises is that if somebody has fingerprints at some point in their life, that's pretty much going to be their fingerprints --
A. For the rest of their life.
Q. Okay. Now, the next principle that's involved in doing an examination and a comparison is that fingerprints are pretty much unique to an individual?
A. Yes.
Q. Now, that proposition is somewhat controversial, is it not?
A. Yes.
Q. Okay. We had a recent example with the Madrid bombing case; is that correct?
A. Yes. 3434

Q. You're familiar with that?
A. Yes.
Q. And can you tell the jury just briefly what that's about?
MR. NICOLA: Objection; relevance.
THE COURT: Sustained.
Q. BY MR. SANGER: Okay. Without going into the details -- I don't want to run afoul of the Court's ruling, but without going into the details, can I ask you this: Was there a lawyer in Oregon who was accused of being involved in a terrorist bombing in Madrid based on a fingerprint?
MR. NICOLA: Objection. What is the relevance of that?
MR. SANGER: Validation studies. I won't say any more.
THE COURT: Can you approach that issue without raising another case?
MR. SANGER: Let me go back and see if I can -- if I can go back and see if we get to this point or not. Let's do it this way.
THE COURT: Thank you.
Q. BY MR. SANGER: Within the last ten years or so, there has been writings raising the question of whether or not there's sufficient differentiation between any two given fingerprints in the world to make positive identifications; is that correct?
A. Yes. 3435

MR. NICOLA: I'm going to object as compound, Judge.
THE COURT: Overruled.
Q. BY MR. SANGER: And there has been, among other things, some litigation in various courts around the country regarding what we might call validation, validating that prints are unique enough to make positive identifications?
A. Yes.
Q. And you're aware of Judge Pollack's decision in the Eastern District of Pennsylvania?
MR. NICOLA: Objection. Relevance; lack of foundation.
THE COURT: Overruled.
You can answer that "yes" or "no."
THE WITNESS: Yes, I know of it.
Q. BY MR. SANGER: Okay. And without going into detail, Judge Pollack raised serious questions about the validity of fingerprint examination and its admissibility in court, correct?
MR. NICOLA: Objection, Your Honor. Calls for hearsay.
THE COURT: Sustained.
Q. BY MR. SANGER: In response to Judge Pollack's decisions, have there been increasing efforts on the part of the fingerprint examining community to validate their techniques?
A. Yes. 3436

Q. All right. And that brings us to the Madrid bombing case, which I'd just like to ask briefly about, if I may.
MR. NICOLA: I'm going to make the same objection, Your Honor. I don't know how that's relevant.
THE COURT: Well, I think I have to let you ask the question before I know whether I'll let you ask the question.
MR. SANGER: Okay.
(Laughter.)
Q. BY MR. SANGER: Okay. I'll try to do it as simply as I can, or as summarily as possible, so we don't get into too much detail.
You're aware that a number of fingerprint examiners that were doing the Madrid bombing case had made a positive identification of the fingerprint of a lawyer in Oregon. Are you aware of that?
MR. NICOLA: Objection; relevance.
THE COURT: You may answer that "yes" or "no."
THE WITNESS: Yes.
Q. BY MR. SANGER: And in that particular case, the experts found in excess of 16 points of identification when they made that, what turned out to be a false positive identification, correct?
A. I don't -- 3437

MR. NICOLA: Assumes facts not in evidence, Your Honor.
THE COURT: You were going to say, "I don't know"; is that right?
THE WITNESS: Yeah.
MR. SANGER: Okay.
THE COURT: I'll allow the answer and the question.
Q. BY MR. SANGER: Now, as a result of that particular case, has there been even more intensification of the efforts on the part of the fingerprint examining community to validate their techniques?
MR. NICOLA: Objection. That calls for speculation; lack of foundation.
THE COURT: Sustained; foundation.
Q. BY MR. SANGER: Okay. Are you aware -- you participate in these various organizations. Are you aware -- let's just make it real simple: The Madrid bombing case and the false identification in that case of the fingerprint --
MR. NICOLA: Objection, Your Honor. Counsel is assuming facts not in evidence. He's testifying.
Q. BY MR. SANGER: Well, was there a false identification of a fingerprint in the Madrid bombing case?
MR. NICOLA: Objection, Your Honor. Asked and answered. 3438

THE COURT: Overruled.
THE WITNESS: Yes. Yes.
Q. BY MR. SANGER: All right. And as a result of that false identification -- do you know when that was, by the way, when that occurred?
A. Last year.
Q. Okay. Sometime in 2004, right?
A. Yes.
Q. As a result of that incident, in addition to all the others, has there been additional concern in the fingerprint examination and comparison community that you are involved in, to your personal knowledge?
MR. NICOLA: Objection, Your Honor, the question is compound; it inserts facts not in evidence; and it lacks foundation.
THE COURT: I think there's a more basic question you have to ask her before you can ask that, which is a foundational question.
MR. SANGER: All right.
Q. Has that case been discussed in -- amongst fingerprint examiners in your presence?
A. Yes.
Q. Has it been discussed at seminars? Have you been to a seminar since that case came down?
A. Yes, I've been to a seminar. It wasn't discussed directly, but it was referred to.
Q. And it was a topic of conversation at the

1 coffee machine at the break?
2 A. Don't drink coffee.
3 Q. Okay. That's right. Okay. You're taking a
4 very healthy approach.
5 All right. In any event -- and then do you
6 read periodicals and other literature regarding
7 fingerprint examination?
8 A. Yes.
9 Q. And has that case been the subject of
10 significant discussion in the periodicals relating
11 to fingerprint examination?
12 A. Yes. And I haven't quite finished reading
13 that one article.
14 Q. Okay. As a result of this -- of these
15 concerns, has there been an increased effort to --
16 let me withdraw that. As a result -- let me
17 withdraw that.
18 What are validation studies?
19 MR. NICOLA: Objection. Lack of foundation,
20 Your Honor.
21 THE COURT: Overruled.
22 You may answer.
23 THE WITNESS: They're tests for competency.
24 Q. BY MR. SANGER: Has there been an effort to
25 enhance the validation studies in order to prove
26 the proficiency of fingerprint examiners?
27 A. I don't know of any official ones, but we
28 always try to be perfectionists. 3440

Q. All right. Now, in the areas -- I'm trying to think of a one-minute question, so I don't launch into something.
THE COURT: That's kind of you.
Q. BY MR. SANGER: But in the area of fingerprint examination, there were -- there's a fellow by the name of Galton who really pioneered all of this in the 1880s; is that correct?
A. Yes.
Q. And to this day, there's a reference to Galton when you talk about Galton points; is that correct?
A. Galton's details. And that's basically minutia, which are points of reference.
Q. So you look at points -- Galton looked at points of reference which would be actual details of the ridge lines in the fingerprint; is that correct?
A. Yes.
Q. All right.
THE COURT: All right. We'll --
MR. SANGER: Being so bold as to take 20 seconds extra here.
(Recess taken.)
THE COURT: You may proceed.
MR. SANGER: Thank you, Your Honor.
Q. Okay. Just before the break, we were talking about validation studies, and one of the aspects that you talked about was proficiency 3441

testing, I think; is that right?
A. Competency.
Q. Competency. Are there blind proficiency tests that are issued to latent print examiners?
A. If your agency requests one, yes.
Q. Have you been involved in such a test?
A. No.
Q. Now, you're aware that over the last few years, that various agencies have tested where they send out prints and ask that they be compared and that they found both false negatives and false positives; is that correct?
MR. NICOLA: Objection; compound.
THE COURT: Overruled.
THE WITNESS: Not personally, but I know of proficiency tests, yes.
Q. BY MR. SANGER: So you have not been tested at all?
A. No.
Q. All right. In this particular case, in this particular case involving Mr. Jackson, you went over the original set of prints that were compared, and you participated in confirming the conclusion that either there was an identification or there wasn't; is that correct?
A. Yes. There would be three results. There would be a positive, meaning it was an I.D., a negative, meaning it did not match, or inconclusive, 3442

meaning that it could, but we couldn't rule out and we couldn't rule in.
Q. All right. And when you make a positive identification, is it your understanding under the rules that govern latent print examiners -- let me withdraw that.
Are there any formal rules and regulations that govern latent print examiners in California?
A. There's no formal rules, but our agency uses the ACE-V method, which is analysis, comparison, evaluation, and then verification.
Q. All right. You're familiar with the rules of ethics that have been promulgated by SWGFST?
A. I've read them.
Q. Well, do you feel they're appropriate for the profession?
A. Yes.
Q. All right. And they reflect, pretty much, what the latent print examiners as a group are striving towards --
A. Yes.
Q. -- is that right?
When you make a positive identification, it is supposed to be just that, positive?
A. Positive.
Q. And it's -- there's no room -- if you say positive, you're expressing the opinion that there's no possibility that anybody else could have left 3443

that print; is that correct?
A. It has to be 100 percent. If it's 99.9,
it's inconclusive.
Q. All right. And in this particular case,
there were two prints that you had expressed an
opinion on which were later determined by others not
to be a correct evaluation; is that correct?
A. Which ones?
Q. Are you -- okay. After you got through
looking at the fingerprints, you did that with
Detective Spinner; is that correct?
A. Yes.
Q. And you and Detective Spinner each formed an
opinion as to whether or not there was a positive
identification or not; is that correct?
A. Yes.
Q. And you then reduced these opinions to
written reports; is that correct?
A. I did not write any reports.
Q. Detective Spinner did?
A. Yes.
Q. Did you review his reports?
A. Not every one of them, but I -- I verbally
talked to him about everything.
Q. So you were aware that he was filing reports
that reflected your conclusions that either a print
was positive or inconclusive or negative; is that
correct? 3444

A. Yes.
Q. Are you aware of two prints that later were determined by other examiners not to be correctly evaluated?
MR. NICOLA: I'm going to object. It assumes facts not in evidence. There's a lack of foundation as to her personal knowledge.
THE COURT: I'll sustain the foundation.
Q. BY MR. SANGER: All right. Let's take it one at a time. Were you aware that 317-L -- you had formed an opinion, along with Detective Spinner, that the print was inconclusive; is that correct?
A. I --
MR. NICOLA: Objection; vague. There were a number of prints on 317.
MR. SANGER: Okay. Let's get the exact one here.
Q. While I'm looking for it, let's just do this: Were you aware that, with regard to 317-L, that one of the prints that you determined was inconclusive, other examiners have come back and said that there is a positive match?
A. We --
MR. NICOLA: Objection. Lack of foundation as to who the other examiners might be.
THE COURT: Overruled. But the question --
THE WITNESS: This is --
THE COURT: The question is, "Are you aware 3445

1 of other opinions?"
2 THE WITNESS: Yes. Can I --
3 THE COURT: No, you can ask your next
4 question.
5 MR. SANGER: Okay.
6 THE WITNESS: Can I --
7 Q. BY MR. SANGER: And we are talking
8 specifically about Fingerprint No. 1, on page 31 of
9 Evidence Item 317-L, which would have been -- well,
10 anyway, evidence Item 317-L. Are you familiar with
11 that print?
12 A. Yes.
13 Q. And you and Detective Spinner decided that
14 that was inconclusive; is that correct?
15 A. At the time of -- when we did all the
16 comparisons, we did 24,000 comparisons, we figured,
17 approximately. We couldn't spend a lot of time
18 really evaluating --
19 MR. SANGER: Your Honor, I move to strike
20 the answer. Not responsive.
21 THE COURT: Sustained. It's stricken.
22 MR. SANGER: Could you answer that question?
23 THE COURT: Have it read back.
24 (Record read.)
25 THE WITNESS: May I explain a little, other
26 than a "yes" or "no"?
27 MR. SANGER: I have to have an answer first.
28 THE WITNESS: Okay. Yes. 3446

Q. BY MR. SANGER: You found that to be inconclusive?
A. At that time, yes.
Q. Later, there was a determination made by somebody other than you that that should be classified as a print belonging to Star Arvizo; is that correct?
A. We did it together, yes.
Q. Okay. So you filed your original report, or Detective Spinner filed his original report on that particular item around the end of June of 2004; is that correct?
A. Approximately, yeah.
Q. Okay. And that's roughly when you concluded your work making the comparisons; is that right?
A. With that particular latent?
Q. Yes, I'm sorry. But with regard to that particular --
A. Amongst thousands, yes.
Q. With regard to that particular item, 317-L, which was a particular magazine; is that correct?
A. Yes.
Q. With regard to that magazine, you concluded your work towards the end of June of 2004; is that right?
A. I don't think it was 2 -- in June, no.
Q. When was it?
A. It was sometime in the fall. 3447

Q. Okay. All right. In any event, fall 2004?
A. Yes.
Q. All right. And then in February, or let's say January and February of 2005, you looked again at Item 317 with Detective Spinner; is that correct? 317-L?
A. I think it was in January, yes.
Q. January 2005?
A. Yes.
Q. Okay. We're in the middle, at that time, of pre-trial motions in this case; is that correct?
A. I guess so, yeah.
Q. Jury's about to be --
A. Well, it was the beginning of January 2005, because I -- I was still pregnant.
Q. Okay. All right. And at that time you had already -- by that time, you had already filed this report saying that print, that being Fingerprint No. 1, developed on page 31 of Evidence Item 317-L, was inconclusive?
A. I did not file a report.
Q. Detective Spinner filed the report with that conclusion, correct? Your unit filed a report with that conclusion, correct?
A. Inconclusive in November, October. And then we filed another report I believe in January.
Q. Yes, ma'am. And then -- actually, the report that you filed -- do you have that report in 3448

front of you, by the way?
A. I did not file a report. It's all -- it's
Spinner.
Q. Detective Spinner filed it, right?
A. Yes.
Q. And you and he were working together in your
unit, the forensic unit, Bureau of Criminalistics
for the sheriff's department analyzing these prints,
correct?
A. Not -- I was on maternity leave at that
time. I came in on a -- for a couple hours one day
to meet with him.
Q. One day when?
A. In January.
Q. Okay. So when he says that you concurred
with him that this print should be reclassified, you
concurred with him based on a two-hour consultation?
A. Well, I would think it was more than two
hours, but I can't say exactly. I didn't have a
stopwatch with me. It was an afternoon. It was a
print that was -- we couldn't spend the time on it,
as I recall.
Q. What I want to ask you is how much time,
now. What you're saying is maybe more than two
hours, but it was an afternoon?
A. It was an afternoon, yes.
Q. All right. And in the course of that
afternoon, did you review other prints other than 3449

1 the one that we just referred to, Print No. 1 on
2 page 31 of 317-L?
3 A. Yes, I believe we reviewed all the
4 inconclusives.
5 Q. All of them?
6 A. Yes.
7 Q. And you determined in this case, between the
8 two of you in that period of time, that your
9 previous inconclusive should be now reported as a
10 positive for Star Arvizo; is that correct?
11 A. Yes. There's -- as an examiner, you always
12 go on the edge of caution, so you want to make sure
13 it's a positive-positive. If you have any -- if you
14 want -- if you want to rush a job and you don't --
15 if you don't want to rush a job, you make it an
16 inconclusive.
17 Q. How many weeks did you work on the
18 fingerprint examinations prior to coming back in
19 January?
20 A. Oh, a few months.
21 Q. Few months?
22 A. At least, yeah.
23 Q. And when you said -- I forgot what the
24 number was, some thousands of comparisons?
25 A. Yes. You have ten fingers on each hand, and
26 we had three people to compare it to, and I believe
27 there was over 700 latents, so that makes
28 approximately 21,000 comparisons. 3450

Q. So you're comparing the 700, more or less,
700 latent prints --
A. Approximately.
Q. -- to three people, each of whom had ten
fingers?
A. Yes.
Q. All right. And you said you never want to
make a positive identification unless you're 100
percent positive, correct?
A. Yes.
Q. And you said if you're rushing things, you
definitely don't rush into a positive. You'd rush
into an inconclusive?
A. Yes, so you can spend the time later
re-examining, if you have the time.
Q. In that same January time period, it was
determined that your positive identification of
Fingerprint No. 1 on page seven of Evidence Item
317-O where Mr. Jackson was positively identified by
you earlier, that that should have been
inconclusive; is that correct?
A. We didn't make it a positive, because I
still feel it's a positive. Bob feels it's more of
an inconclusive. And so we can't come to a
conclusion, so it's still an inconclusive.
Q. So "Bob" is Detective Spinner; is that
correct?
A. Detective Spinner, yeah. 3451

1 Q. But once again, that had been written up as
2 a positive prior to January and February of 2005,
3 correct?
4 A. By "Bob," by Bob Spinner, yes.
5 Q. So fingerprint identification is really
6 subjective; is that correct?
7 A. Yes.
8 Q. In other words, it's up to somebody who has
9 training or -- in other words, or whatever their
10 background is, to look at the latent and look at the
11 rolled print and make a subjective determination
12 that they believe that it's the same person; is that
13 right?
14 A. Yes, with training.
15 Q. And we have indicated with a couple of
16 examples, and I won't go into any more particular
17 ones with you right now, but there have been a
18 number of other notable misidentifications of prints
19 in recent years, have there not?
20 A. Yes.
21 Q. All right. Now, you talk about the ACE-V
22 analysis. And the ACE-V analysis was actually put
23 together really by Sergeant Ashbaugh of the Royal
24 Canadian Mounted Police?
25 A. Yes.
26 Q. And Sergeant Ashbaugh was a sergeant in the
27 RCMP?
28 A. Yes. 3452

Q. And he decided that, oh, 20 years ago or so, that fingerprint analysis needed to be upgraded and have a more scientific vocabulary; is that correct?
A. He was one of the many people, yes.
Q. And he, in fact, coined the phrase "ridgeology"?
A. Yes.
Q. Do you consider yourself a ridgeologist?
A. To a certain point, yes.
Q. And he wrote a book with that name in the title, I think.
A. Yes.
Q. When you say "ridgeologist" or "latent print examiner," you're talking about looking at the ridges and trying to see what you got in that latent, if it matches the ridges of the rolled print; is that right?
A. Yes.
Q. Now, prior to Sergeant Ashbaugh's arrival on the scene and his writing and whatnot, the Galton points were given a tremendous amount of weight; is that correct?
A. Yes.
Q. And by "Galton points," we sometimes hear there's so many points of identification where you look at a particular image on the magazine or from the Scenescope or the super glue or the ninhydrin, and then you look at the rolled print, and you say, 3453

1 “Ah-hah, that looks like the end of that line ends
2 just about exactly the same place on both prints.”
3 Would that be an example of a Galton point?
4 A. Yes.
5 Q. And at one time it was thought that simply
6 counting the number of Galton points was a good way
7 to make a positive identification; is that correct?
8 A. A long time ago. They need to be the same
9 orientation, too.
10 Q. All right. So we’ve gone from just
11 counting, where somebody says, “Oh, we’ve got 12
12 points of identification,” for instance, to looking
13 at more than just the 12 points of identification?
14 A. Yes.
15 Q. Ultimately, when you do your analysis, the
16 first thing that you need to feel comfortable with
17 is that you have a -- a valid print; that is, a
18 latent print is a print that was, in fact, preserved
19 properly and enhanced, or whatever was done to make
20 it visible, that all of that was done in a reliable
21 fashion; is that correct?
22 A. Yes.
23 Q. And then you do an analysis of the print to
24 see if there’s going to be enough of a print and
25 enough of a coherent print to do a comparison,
26 correct?
27 A. Yes.
28 Q. You could have one print over another that 3454

might cause problems; is that right?
A. That's one of our problems, yes.
Q. And you can have a print that's on paper that's crinkled, or there's some other problem with it so you don't get enough of a print?
A. Yes.
Q. You could have a print where just the edge of somebody's finger hit the paper and that's the only thing that will show up?
A. Yes.
Q. So the first thing is, you try to analyze the print and make sure you got enough to go with. If there are danger signs, do you reject the print?
A. Yes.
Q. All right. So, for instance, if there are too many -- there's too much pressure, there's a smear or something like that, it may render the print really unusable; is that correct?
A. Yes.
Q. Now, assuming you find a partial print, which is a portion of that otherwise ideally rolled print that's sufficient, you go to the comparison stage; is that right?
A. Yes.
Q. So we're actually doing this ACE-V thing.
A. You do the analysis. Can I give a quick description?
Q. We did analysis, right? 3455

A. Yeah.
Q. Now we're going to comparison. That's C, AC?
A. You have missed a few things in the analysis.
Q. Go ahead. Okay.
A. You also look at the general pattern. If the pattern -- the subject you're comparing to is a known, your suspect, has all whorls, and the print that you're comparing it to is a loop, you can eliminate him right then.
You don't have to go any further than that.
So you've got to look at the overall latent print as far as the pattern, the details in the -- in the latent, and you can do some quick evaluation, right then and there, that you don't need to continue on to the comparison process.
Q. All right. So whether that's part of analysis or the first part of comparison, you do a basic overall comparison of the known or rolled prints with the latent --
A. Yes.
Q. -- is what you're saying, and then you go to a more detailed comparison if you feel we're still in the ball game. You got enough to look at, you think, and then there's a general agreement that it's either a whorl or a loop or an arch or something, right? 3456

A. Yes.
Q. So when you get to comparison, tell me what you do besides count Galton points.
A. You look at the three levels of detail. There's the general pattern, then ridge flow of the fingerprint or palm print.
Then the next layer of detail is Galton's details or minutia, which is what we call it now, and those are ridge endings, where the ridge will just go up and end, or bifurcation, where the ridge goes up and it separates into two. There's short ridges, which are just little short ridges in between the row of other ridges. There's dots, which are just a little dot. And there's scars, marks, warts, you know, other things. You look at those and see if they line up in the same orientation.
And then you can go down to the third level of detail, which is ridgeology of -- the edges of the ridges, like edgeoscopy they call it, and it's the actual way the ridges form, if there's a bump in it, or if it flows a certain different way. And you can also look at the poreoscopy, the actual placement of the pores along the ridges.
Q. Okay. In order to get to what you're calling the edgeoscopy or the poreoscopy, you have to have a very good latent; is that correct?
A. Yes. 3457

Q. Most latents -- for instance, on a magazine, most latents you're not going to be able to see that kind of detail to make that kind of comparison; is that correct?
A. Most of them, yes. But some are clear enough, yes.
Q. And you talked about the Galton points. For instance, at one time it was thought that maybe 12 points of identification would assure an absolute positive identification; is that correct?
A. By some agencies, yes.
Q. In fact, some agencies went as low as seven or nine points of identification; is that correct?
A. I don't know.
Q. And we were talking about this lawyer who was falsely identified based on a fingerprint in Oregon in the Madrid bombing case, that there were over 16 points of identification that were established by the FBI in that case; isn't that correct?
A. I don't know how many points they went off. I looked at the print itself and I wouldn't I.D. it, so --
Q. In any event, whatever it was, it was enough for the FBI to say there was sufficient points of identification, correct?
A. At that time, yeah, I guess so.
Q. Okay. In 2004? 3458

A. Yeah.
Q. And they were aware of this additional --
the more than just Galton's 1886 approach to
counting points. They were aware of all the
advances that had been made in fingerprint
identification?
MR. NICOLA: Objection; assumes facts not in
evidence.
THE COURT: Sustained.
MR. SANGER: May call for speculation,
actually. Let me withdraw that.
Q. Have you worked with the FBI before?
A. No.
Q. Now, once you get through with the analysis
and comparison, you then go to the evaluation, which
is the E --
A. Yes.
Q. -- part of ACE?
A. Yes.
Q. And that, as we just said, is not a matter
of counting points of identification, correct?
A. No.
Q. So -- I did that again, I said "correct."
Is evaluation merely a matter of counting the points
of identification?
A. We don't count points.
Q. Okay. In other words, it's a subjective
determination? 3459

A. Yes.
Q. That's, for instance, where Bob says, "Oh, 317-O was Michael Jackson's print," and you say you don't think it was, or you don't think there was enough to make that determination, right?
A. It's actually reversed.
Q. Whichever way it went. Whichever way it went. I'm sorry if I got it backwards. But there's a disagreement, because it's subjective?
A. It's -- yeah.
Q. There's no scientific way of absolutely verifying the point, is there?
A. Well, we strive to, as this is an applied science.
Q. But -- it's an applied science, but it ultimately is your subjective opinion, correct?
A. Yes.
Q. Correct?
A. Yes.
Q. Now, the last -- it's ACE, and then usually puts a dash and a "V," I suppose.
A. Yes.
Q. And the "V" is for verification; is that right?
A. Yes.
Q. And that means that ordinarily you would have another examiner look at your work, or you would look at another examiner's work? 3460

A. Yes, independently.
Q. And see if you come up with the same conclusion; is that right?
A. Yes.
Q. And you're aware that many cases where there have been false positives involve just that. There was verification by two or more people in addition to the regular, or the original examiner, correct?
A. Not personally, but by reading, yes.
Q. By reading about other examples and --
A. Yes.
Q. -- and discussing them.
Your Honor, since this witness has not gone into any more specifics, slides, pictures, I am going to ask for leave to bring her back at that time, if those are introduced into evidence, rather than attempt to take the People's evidence and put it up on the screen and go through it, if that's acceptable to the Court.
THE COURT: All right.
MR. SANGER: Okay. Thank you. I have no further questions at this time.
MR. NICOLA: I'll be brief.

FURTHER REDIRECT EXAMINATION
BY MR. NICOLA:
Q. You've mentioned the word "subjective" a few times when you're talking about fingerprint 3461

comparisons.
When you go through the ridges and pick out the minutia, what you're trained to do, is it your belief that those items are there, or is that something that other people, you hope, can pick out as well?
A. Well, I hope that other people can come to the same conclusion that I came to.
Q. And you've used the word "applied science."
A. Yes.
Q. Is your craft one that, I hope, can be replicated by others doing the same fingerprint comparison?
A. It should be.
Q. Okay.
A. If I did a comparison and I hand it off to another examiner, they should come to the same conclusion I did. And that's what an applied science is.
Q. That suggests some objectivity to this?
A. Yes.
MR. SANGER: Objection; leading.
THE COURT: Sustained.
MR. SANGER: Move to strike.
THE COURT: Stricken.
Q. BY MR. NICOLA: Did you want to explain that inconclusive that you and Mr. Spinner went back to take a look at? 3462

A. Yes. Fingerprint comparisons --
MR. SANGER: I'm going to object as, first of all, the question is vague. Secondly, that seems to be nonresponsive.
MR. NICOLA: Can I rephrase?
THE COURT: Yes.
Q. BY MR. NICOLA: Okay. Mr. Sanger brought up an inconclusive fingerprint on Item 317-L.
A. Yes.
Q. What can you tell us about that one?
MR. SANGER: Objection; calls for a narrative.
THE COURT: Sustained.
Q. BY MR. NICOLA: Can you explain what an inconclusive means?
A. It means it's a difficult print, and you can't rule the person to be a positive I.D., and you can't rule him out to be a negative I.D. With further time examining it and spending time running the ridges and working with the print, you can turn it into a positive or you can turn it into a negative.
But at the time of evaluation at that time, we wanted to leave it as an inconclusive, and come back to it, because it was a more difficult print to make an I.D. of.
Q. Okay. With respect to that particular print, an inconclusive fingerprint is one that you 3463

1 believe belongs to a particular person?
2 MR. SANGER: Objection; leading.
3 MR. NICOLA: I'll rephrase it, Your Honor.
4 Q. Did you have a belief as to who that
5 fingerprint was made by, even when you labeled it
6 inconclusive?
7 A. Yes.
8 MR. SANGER: Objection. Objection; that's
9 an opinion without an adequate foundation.
10 THE COURT: It's overruled. She's already
11 testified that she had an opinion separate from the
12 other person, so I'll allow the question.
13 MR. NICOLA: Do you want it read back?
14 THE WITNESS: Yeah.
15 (Record read.)
16 THE WITNESS: Yes.
17 Q. BY MR. NICOLA: And what was that?
18 A. As Star Arvizo.
19 Q. Okay. You mentioned that you reviewed all
20 the inconclusives with Detective Spinner. Were
21 there many inconclusive fingerprints?
22 A. I don't have the complete list, but there
23 weren't that many.
24 Q. And in fact, there weren't very many
25 positive fingerprints either, were there?
26 A. No.
27 MR. SANGER: I'm going to object --
28 withdrawn. 3464

THE COURT: Did you withdraw that?
MR. SANGER: I withdrew it. I'm sorry, Your Honor.
Q. BY MR. NICOLA: Can you explain to us what you meant by fingerprint examining being an applied science?
MR. SANGER: Asked and answered.
THE COURT: Overruled.
You may answer.
THE WITNESS: An applied science is something that can be repeated by someone of the same level of proficiency that you are at. So if I did a comparison and gave it to another examiner, they should come to the same conclusion that I came to.
MR. NICOLA: Okay. Thank you very much. I have no further questions.

FURTHER RECROSS-EXAMINATION
BY MR. SANGER:
Q. One of the rules articulated by SWGFST is you don't express an opinion on an inconclusive other than it's inconclusive, right?
A. Yes, but you still have a gut feeling as to what you -- what you feel.
Q. And according to SWGFST, according to their rules of ethics, it's inappropriate to come into a courtroom and testify as to who you believe an 3465

inconclusive print may belong to. They deem that unethical, do they not?
A. I guess so.
Q. Okay. Now, as far as your explanation of this applied science business, I understand that you come to this by certain training and experience, but when you put the actual prints up on the board - when I say "the board," the screen, for instance, behind you - and show them to a jury or a group of intelligent people, they should be able to follow your analysis in coming to the conclusion that there either is or is not a match, correct?
A. On -- yeah. Yes. With some explaining and, you know, some basic training in the courtroom, yeah.
Q. All right. In other words, it's not -- it's not -- you're not seeing something that other people cannot see. You are appreciating things that you have learned to appreciate from your training and experience, correct?
A. Yes.
Q. So when it's up there, the jury or anybody else in the courtroom can look to see the points of identification or the other characteristics of the print, the latent print and the rolled print, and they should be able to visually see the same things that you can see, correct?
A. They should -- 3466

MR. NICOLA: Objection, Your Honor, that calls for speculation.
THE COURT: Overruled.
THE WITNESS: They should, you know, with some explaining from the examiner, you know, pointing out the details, be able to see everything we see.
Q. BY MR. SANGER: It's not reading tea leaves or something --
A. No.
Q. -- or where there's something mystical about it.
A. No, they're there.
MR. SANGER: All right. Thank you. No further questions.
MR. NICOLA: I have nothing further, Your Honor.
THE COURT: Thank you. You may step down. Call your next witness.
MR. NICOLA: Yes, Your Honor. Char Marie.
THE COURT: Raise your right hand, please.
CHARLENE MARIE
Having been sworn, testified as follows:

THE WITNESS: I do.
THE CLERK: Please be seated. State and spell your name for the record.
THE WITNESS: My name is Charlene Marie; 3467

C-h-a-r-l-e-n-e, M-a-r-i-e.
THE CLERK: Thank you.

DIRECT EXAMINATION
BY MR. NICOLA:
Q. Did you bring my binder?
A. I did.
Q. Well, good afternoon.
A. Good afternoon.
Q. Can you please tell the jury who you're employed by?
A. I work for the California Department of Justice at the Santa Barbara Regional Crime Laboratory. I'm a senior criminalist there.
Q. How long have you been employed by that agency?
A. Just about 15 years.
Q. How long have you been a criminalist?
A. 15 years.
Q. Do you, on occasion, receive requests from the Santa Barbara County Sheriff's Office to process evidence on their behalf?
A. I do.
Q. And what is the procedure in getting the evidence to you to process?
A. The procedure is that someone from the sheriff's office will bring in the evidence. We also accept evidence via UPS, or in the mail. We 3468

1 serve San Luis Obispo and Santa Barbara Counties, so
2 some of our agencies ship their evidence in to us.
3 And sometimes we go to the scene and help collect
4 evidence.
5 Q. On or about February 4th of 2004, did you
6 receive some evidence --
7 A. Is that the question?
8 Q. I lost my place -- from a Lisa Hemman?
9 A. May I look at my notes?
10 Q. If that refreshes your recollection,
11 certainly. On or about February 4th, did you
12 receive an item of evidence from Lisa Hemman of the
13 sheriff's office?
14 MR. SANGER: May I approach to see what
15 notes are being looked at to refresh?
16 THE COURT: Yes.
17 MR. SANGER: Thank you.
18 THE WITNESS: These are submission forms.
19 So, yes, I did. I received evidence. And
20 did you ask me what did I receive?
21 Q. BY MR. NICOLA: Not yet.
22 A. Okay.
23 Q. What did you receive?
24 A. I received Item 317, and various subsets of
25 that, 317-B, G, K, L, R, S, Y, double B, double C,
26 double E, double K, double R, double U, double Y,
27 and triple D. 15 items.
28 Q. Okay. Did you note the date on a form 3469

anywhere when that evidence came to you?
A. I did, on the submission form. Lisa Hemman signed it off. I made a notation, "IP," which means to us "in person," and my signature, and then I wrote the date.
Q. Okay. If she testified earlier that she dropped it off on February 5th of 2004, is that in conflict with your record?
A. I --
MR. SANGER: Objection; leading. And calls for speculation as to when it was received.
THE COURT: Calls for a conclusion; sustained.
Q. BY MR. NICOLA: What did you do with the item when you received it from Ms. Hemman?
A. I locked it -- well, we logged it into the lab, and then I locked it in my evidence locker in the evidence vault.
Q. Did you mark the bag in any fashion?
A. Yes, we put the case number on it, my initials would be on it, and the date that I received it.
Q. I've just placed in front of you Exhibit No. 529; is that correct?
A. Yes.
Q. Would you please remove the contents of Exhibit 529 and tell the jury if you recognize what the contents of that exhibit are? 3470

A. I recognize it. It's a sealed brown paper bag and this is my writing on the bag that has our lab case number for this case. That's my signature, and that's the date that I put on the bag.
Q. Is this the bag that you received on February 4th from Lisa Hemman?
A. Yes.
Q. Okay. Did you open that bag immediately upon receipt?
A. I did not.
Q. When did you first open that bag?
A. I'm going to check my notes. That's okay? I first examined Item 317, the contents of this bag, in July, July 27th.
Q. And from the time that you received it on February 4th until July 27th, where did that bag remain?
A. The bag was in my evidence locker in the evidence vault from the time I received it until May 20th. On May 20th, Detective Al Lafferty of the S.O. picked it up and he returned it the next day, on May 21st.
Q. So from February 4th until May 20th of 2004 --
A. It was in -- sorry.
Q. -- it was in your evidence locker?
A. Yes.
Q. Did anyone else have access to your evidence 3471

1 locker?
2 A. No.
3 Q. No?
4 A. No.
5 Q. Okay. When you did open the bag in July --
6 A. In July.
7 Q. -- did you make a photographic record of the
8 contents?
9 A. I did.
10 Q. Okay. Did you also write notes on the
11 photographic record explaining what you did at the
12 time that you did it?
13 A. Yes, I did.
14 MR. NICOLA: I'm going to mark this next in
15 order, 766. May I have this two-page document....
16 Q. Do you recognize Exhibit 766?
17 A. Yes, I do.
18 Q. Can you tell the jury what is depicted in
19 that?
20 A. I took a photo of the front cover of each
21 item that was in the brown paper bag after I opened
22 it, so at the top is my writing saying that I
23 removed the taped, sealed bag from the vault and
24 that there were 15 items in the bag. I list them,
25 and then I started taking photographs of what I saw
26 in the bag with their item numbers on these two
27 pages. So there are 15 -- 15 photos printed out on
28 these two pages. 3472

Q. Is Exhibit 766 an accurate depiction of --
A. Yes.
Q. -- the record of your file?
A. Yes.
Q. Does it accurately depict the magazines that were within Exhibit -- what is the exhibit number on the bag? I'm sorry.
A. 766.
Q. I need to look at the bag.
I'm sorry, I'll ask that question again.
Is 766 an accurate depiction of what was inside the bag, Exhibit 529, when you received it from Lisa Hemman on February 4th, 2004?
A. Yes.
MR. NICOLA: May I publish, Your Honor?
THE COURT: Any objection?
MR. SANGER: Is he offering to admit it, I suppose, first before he publishes?
THE COURT: Yes.
MR. SANGER: No objection.
MR. NICOLA: Move to admit and publish.
THE COURT: All right. It's admitted.
Q. BY MR. NICOLA: These are just the photographs of the front pages, correct?
A. Yes.
Q. And there's a page two?
A. Yes, there's a second page.
Q. The yellow stickies, post-it notes, that are 3473

visible in this Exhibit 766, in particular protruding from 317-R and 317-UU, were those in place at the time that you received this evidence item?
A. They were.
Q. Okay. When was Exhibit 529 and its contents released to the sheriff's office for good?
A. On July 29th of '04.
Q. Okay. So essentially you had that item for almost six months?
A. Yes, but for the one day that it went to the sheriff's office and came back.
Q. For that period of time, was there -- excuse me. During that period of time, was there any period that you were unavailable to work on this case?
A. Yes.
Q. Explain to the jury why that was.
MR. SANGER: I'm going to object, relevance, Your Honor.
THE COURT: Overruled.
THE WITNESS: Last spring I spent seven weeks as a juror on a civil trial down in Santa Barbara.
MR. NICOLA: Trial lasting seven weeks.
THE COURT: It's a short one.
THE WITNESS: I thought it was long.
MR. NICOLA: I have no further questions.
THE COURT: Cross? 3474

CROSS-EXAMINATION
BY MR. SANGER:
Q. All right. How are you doing?
A. I'm a little nervous.
Q. Really?
A. Otherwise fine, thank you.
Q. Excuse me. Now it's caused me to choke.
Sorry about that.
(Laughter.)
Q. BY MR. SANGER: To everybody's dismay, I
have recovered, however, so -- all right, just a few
questions here.
The exhibit that you identified, 766, which
is the photographs that you took of the various
items, first of all, are those all of the items that
you took?
A. On the whole case?
Q. In this bag. You said there was a bag of
items that you received. Excuse me. Were those all
of the items? Are all of the items depicted in that
exhibit?
A. I believe so. I counted 15 items.
Q. Okay. And there are 15 here?
A. 15 photos, uh-huh.
Q. And this is from -- what you understand --
when you say it's 317, you understand this to be
Sheriff's Item 317; correct?
A. That's right. 3475

Q. You never saw Sheriff's Item 317 itself, did you?
A. This is what I saw, this tape-sealed paper bag that had 15 things in it.
Q. So if I were to take the time to find it here and hold up a black briefcase that was Item 317, you would say, "I never saw that"?
A. Right, I haven't seen that.
Q. Okay. And similarly, you mentioned that you had B -- I won't read them all because it makes it difficult for the court reporter, among other things. But you have the various letters you wrote down after each item there, correct?
A. Yes.
Q. 317-B, and then BB, et cetera --
A. Yes.
Q. -- that applies to you, does it not, Miss Marie? That there were probably other items that were labeled with letters that you never saw?
A. It's quite possible, yes.
Q. Okay. The sequence that you saw goes as far as 317-DDD, correct?
A. Well, I have a triple D. I also have a double Y.
Q. Assuming it went through the alphabet, it went through a double alphabet and then went through a triple alphabet. It went at least up to 317-DDD, it seems. 3476

A. Yes. In that case, there were a lot of other items that were named that way.
Q. Okay. And your job was to look at that with an alternative light source, correct?
A. Yes.
Q. Did I ask you this? On 766, that's your handwriting on the notes around the pictures?
A. It is.
Q. All right. And when you looked at the alternative light source, looked at the items with the alternative light source, did you find any suspected DNA to sample and analyze?
A. Well, the light source is just a presumptive searching tool, and all it's going to tell you is if something's glowing. If something's glowing, biologicals do glow, so that's one area that you might want to test.
Q. Okay. Is that what you were looking for?
A. I was looking for biological material, yes.
Q. Bodily fluids, pretty much?
A. Correct.
Q. The question is, did you find any?
A. I did not.
Q. So as far as you could tell, there was no DNA to be tested from the materials you were sent?
A. Well, there's no seminal material.
Q. There's nothing you felt -- just to make it clear, I'm not trying to trap you here, but there 3477

was nothing that you found and you said, "Ah-hah, we ought to send this off to Sacramento or have a DNA lab do a further analysis of this"; is that correct?
A. That's right.
Q. You pretty much packaged it back up and sent it back to Santa Barbara?
A. I did, yes.
MR. SANGER: All right. Very good. Thank you. No further questions.
MR. NICOLA: No questions, Your Honor.
THE COURT: Thank you. You may step down.
THE WITNESS: Thank you.
THE COURT: See, all that worrying for nothing.
THE WITNESS: I know. Thank you.
MR. SANGER: Your Honor, while we're waiting for the witness, may Mr. Nicola and I approach briefly?
THE COURT: Yes.
(Discussion held off the record at sidebar.)
THE COURT: When you get to the witness stand -- when you get to the witness stand, remain standing.
Face the clerk here and raise your right hand.

HERIBERTO MARTINEZ, JR.
Having been sworn, testified as follows: 3478

THE WITNESS: I do.
THE CLERK: Please be seated. State and spell your name for the record.
THE WITNESS: My name is Heriberto Martinez, Junior. That's spelled H-e-r-i-b-e-r-t-o; last name Martinez, M-a-r-t-i-n-e-z; and the suffix Junior, J-r.
THE CLERK: Thank you.

DIRECT EXAMINATION
BY MR. NICOLA:
Q. Good afternoon, sir.
A. Good afternoon.
Q. Where are you employed, sir?
A. I work for the County of Santa Barbara in the sheriff's department.
Q. And have you ever seen the defendant before?
A. I have.
Q. Have you seen him in person before?
A. Yes, I have.
Q. Do you recognize the exhibit I put in front of you?
A. It's a fingerprint card.
Q. Okay. Turn it over. Did you make that fingerprint card with Mr. Jackson?
A. I took these fingerprints.
Q. Okay. Is the date written on the back?
A. Yes, it is. 3479

Q. Okay. And that's Exhibit 766?
A. It's 767.
Q. 767. You took those fingerprints on which date?
A. On November 20th, 2003.
Q. And are they the fingerprints of Mr. Jackson?
A. To my knowledge, they are.
Q. Okay. Are those inked fingerprints?
A. These fingerprints are -- I took them on a Livescan machine.
Q. Do you recall that?
A. Yes.
Q. How does the Livescan machine work, just generally?
A. When you take a fingerprint, it's on a glass plate, and it shows up on a monitor, computer monitor, immediately as you take the fingerprint. As you roll the fingerprint from one side -- the finger from one side to the next, it shows immediately what you're taking a picture of.
Q. Okay. Do all these images stay up on the screen for some period of time?
A. Each one will show up individually. At the end of the taking the set of fingerprints, it will display as it displays here, with all fingerprints showing.
Q. Okay. Did you take Mr. Jackson's 3480

1 fingerprints on that date?
2 A. I did.
3 Q. Okay. And does that record reflect that
4 those are Mr. Jackson's fingerprints on the writing
5 on the back of that exhibit, 767?
6 MR. SANGER: Objection; calls for hearsay.
7 MR. NICOLA: It's an official record.
8 THE COURT: Overruled.
9 You may answer.
10 THE WITNESS: I may answer?
11 Q. BY MR. NICOLA: Yes, you may answer.
12 A. Repeat the question, please.
13 Q. The question was, does the back of that
14 document, 767, with the writings, indicate that
15 those are Mr. Jackson's fingerprints?
16 A. Yes, it does.
17 Q. Okay. And is your name and body number also
18 on that document?
19 A. My last name and my body number are on the
20 document.
21 MR. NICOLA: Okay. Your Honor, I move 767
22 into evidence.
23 MR. SANGER: No objection.
24 THE COURT: It's admitted.
25 MR. NICOLA: No other questions.
26 THE COURT: Cross-examine?
27
28 CROSS-EXAMINATION 3481

BY MR. SANGER:
Q. Okay. Mr. Martinez, how are you?
A. Very well. How are you, sir?
Q. I'm doing fine. Thank you for asking.
You are a sworn peace officer, or not?
A. I'm a sworn officer, yes.
Q. Are you 24-hours-a-day sworn or when you're on duty?
A. Only when I'm on duty.
Q. So you're a correctional officer with the sheriff's department; is that correct?
A. That's correct.
Q. You're not a deputy who patrols or a detective, that sort of thing; is that right?
A. That's right.
Q. Okay. And one of your duties at the jail, excuse me, from time to time, is to book people in who come in?
A. Yes, sir.
Q. And you have other duties there as well; is that correct?
A. That's correct.
Q. Sometimes you patrol various areas of the jail?
A. I work in most areas of the jail, yes.
Q. So you've done pretty much anything that a correctional officer would do in the jail, I take it? 3482

A. Yes, that's correct.
Q. There you go.
And you're not trained as a latent print examiner, are you?
A. No, I'm not.
Q. And you -- when you're taking these prints from people and using this Livescan device, you received some training on that from some source?
A. Yes, I did.
Q. It was on-the-job training?
A. I was working at the time I was trained, but it was provided by the Department of Justice.
Q. Okay. Somebody from the crime lab in Goleta?
A. No, it was a -- may I check my note I have here?
Q. Well, okay.
A. It was from the state. Somebody -- I took a 15-hour class on fingerprints.
Q. Okay. And based on that 15-hour class, that's where you learned how to put people's hands in this machine and get the prints up on the screen?
A. The actual using the Livescan itself was on-the-job training.
Q. That's what I was asking about. So you had a 15-hour class as part of your training to book people in the jail. You had a 15-hour class on how to roll fingerprints, correct? 3483

A. That is correct.
Q. All right. And then you had the on-the-job training to learn how to use that Livescan device, right?
A. Yes, that's correct.
Q. So one of your supervisors or colleagues said, "Okay, we've got this machine. This is how you do it"?
A. Yes, that's correct.
Q. All right. And you said you were -- to the best of your knowledge, those were Mr. Jackson's prints. Do you have any question as to whether or not those belong to Michael Jackson?
A. As I stated earlier, I'm not an expert witness on the fingerprints, so I know I took his fingerprints on the day noted here.
Q. Okay.
A. If these are, in fact, the same ones, then, yes, they are his prints.
Q. It looks familiar to you is what you're saying?
A. Yes.
MR. SANGER: All right. I have no further questions.
MR. NICOLA: No redirect, Your Honor.
THE COURT: Thank you. You may step down.
THE WITNESS: Thank you.
MR. NICOLA: Alicia Romero. 3484

THE COURT: When you get to the witness stand, please remain standing. Face the clerk and raise your right hand.

ALICIA ROMERO
Having been sworn, testified as follows:

THE WITNESS: Yes, I do.
THE CLERK: Please be seated. State and spell your name for the record.
THE WITNESS: My name's Alicia Romero; A-l-i-c-i-a, R-o-m-e-r-o.
THE CLERK: Thank you.
MR. SANGER: Your Honor, I have an objection to proceeding. It's somewhat technical, but could we just have a moment? I know you --
THE COURT: They can't hear you in the courtroom.
MR. SANGER: I say, could we just have a moment at the bench? I know you don't prefer that, but I think it's a technical --
THE COURT: All right.
MR. SANGER: Thank you.
(Discussion held off the record at sidebar.)
MR. NICOLA: Your Honor, since we will not be prepared to go forward with this witness, we'd like to excuse her pending re-call.
THE COURT: We won't excuse you, but we'll 3485

re-call you. You may step down.
Sorry. We won't excuse you, we'll re-call you.
MR. NICOLA: May we make notice to Miss Romero at her office? It probably won't be today.
THE COURT: Yes. Remain on call.
THE WITNESS: May I leave for today?
THE COURT: Yes.
She can return to work today, correct?
MR. AUCHINCLOSS: Your Honor, we'll call Detective Tim Sutcliffe as our next witness. He's downstairs.
THE COURT: When you get to the witness stand, please remain standing. Face the clerk and raise your right hand.

TIMOTHY SUTCLIFFE
Having been sworn, testified as follows:

THE WITNESS: I do.
THE CLERK: Please be seated. State and spell your name for the record.
THE WITNESS: My name is Timothy Sutcliffe; S-u-t-c-l-i-f-f-e.
THE CLERK: Thank you.
MR. AUCHINCLOSS: Technical difficulties.
// 3486

1 DIRECT EXAMINATION
2 BY MR. AUCHINCLOSS:
3 Q. Good afternoon, Detective Sutcliffe.
4 A. Good afternoon.
5 Q. Who do you work for?
6 A. Santa Barbara County Sheriff's Department.
7 Q. What do you do for the sheriff's department?
8 A. Currently right now, I'm assigned as a
9 detective in the forensics unit, the Criminal
10 Investigations Division.
11 Q. Are you a law enforcement officer?
12 A. Yes, I am.
13 Q. How long have you been a law enforcement
14 officer?
15 A. Approximately 16 years.
16 Q. Have you worked with the Santa Barbara
17 Sheriff's Department that entire time?
18 A. Yes, I have.
19 Q. And what did you say your current assignment
20 is?
21 A. I'm a detective in the Forensics Bureau of
22 the sheriff's department. Criminal investigations.
23 Q. All right. Tell me what the duties of a
24 detective in the Forensics Bureau are.
25 A. Respond to crime scenes, do crime scene
26 investigation, evidence collection, searching for
27 latent evidence, booking of property, seize the
28 crime scenes, and sketching. All the facets of 3487

1 crime scene investigation.
2 Q. Have you had any special training in
3 procedures for locating latent fingerprints?
4 A. Yes, I have. I had -- my duties as a patrol
5 officer included also crime scene investigation,
6 responding to take general dusting prints of latents
7 at the scenes of auto burglaries and such.
8 Also, I attended a 40-hour crime scene
9 investigation course in 1999 that dealt with crime
10 scene investigation. Also delved into latent print
11 recovery techniques.
12 I attended a class in 2003 at the Department
13 of Justice in California regarding latent print
14 techniques.
15 I also attended a class regarding latent
16 print comparisons, 40-hour class, also taught by the
17 Department of Justice.
18 And I also took a 24-hour course regarding
19 the identification of palm prints.
20 Q. Have you had experience in the field and in
21 the lab concerning locating and identifying latent
22 fingerprints?
23 A. Yes, I have.
24 Q. Can you briefly describe that for us?
25 A. In the lab we do print techniques dealing
26 with using the alternate light source, Scenescope
27 techniques, using chemical processes to develop
28 latent fingerprints, and also using super gluing 3488

techniques, as well as fluorescent powder dusting, magnetic powder dusting and the like.
Q. So have you personally used ninhydrin solution to locate fingerprints?
A. Yes, I have.
Q. And have you personally done cyanoacrylate ester fuming, if I pronounced that correctly, to aid in the detection of fingerprints?
A. Yes, I have.
Q. Have you personally used the Scenescope in the detection of latent fingerprints?
A. Yes, I have.
Q. Did you participate in establishing a protocol for finding latent fingerprints in the Jackson -- People v. Jackson case?
A. Yes, I did.
Q. Who else participated in establishing that protocol?
A. At that time, I believe it was I.D. Technician Torres, myself, and Detective Albert Lafferty.
Q. And can you briefly tell the jury, or -- yes, just briefly tell the jury what protocol was decided upon to look for fingerprints on magazines that were seized pursuant to a search warrant of Neverland.
A. Based on the type of magazines that we had, mostly of a semi-glossy, glossy nature, it was 3489

decided, after lots of consideration, that we would use the super gluing technique, followed by a Scenescope search for latents after the super glue technique.
And once that was completed, we would then do a ninhydrin chemical process to hopefully further develop some prints.
Q. And did your department prepare a Power Point presentation to guide us through this protocol that was established for this particular case?
A. Yes, they did.
MR. AUCHINCLOSS: Your Honor, could we have the lights dimmed? And I'd ask that you provide me with "Input No. 1."
For the record, this is a Power Point presentation. I presented a copy to the Court marked as an exhibit and provided a copy to defense counsel.
MR. SANGER: What exhibit is it?
MR. AUCHINCLOSS: Madam Clerk, could you help me with that?
THE CLERK: 723.
MR. AUCHINCLOSS: 723. Okay.
Q. All right. Detective, I'm going to ask you about each of these slides and ask you to tell me exactly what they depict, okay?
A. Very well.
Q. Let's begin. 3490

A. This is a demonstration of the original photography recording protocol. Each magazine was placed on a copy stand, photodocumented page for page. This included the loose pages which were not part of a complete magazine, which might be some of the inserts such as the little subscription cards you might send in to get another copy, that sort of thing.
Q. Were there also some pages that were standing alone, some pages that had been torn out?
A. Yes.
Q. All right.
A. Once that process was done, a digital camera was connected to the computer, the pictures were automatically downloaded and stored onto our forensics computer.
Q. Now, was this before any examination of the magazine was done, before any alternate light source, anything of that nature?
A. Actually, we had completed some alternate light source examination of this prior to this process taking place.
Q. All right. So the magazines were intact when you first looked for biological materials using the alternate light source?
A. That's correct.
Q. So then the magazine was taken apart after that portion of the protocol was completed? 3491

A. That's correct.
Q. Okay.
A. As a matter of fact, here is showing the separation of the magazine after the photographs are taken. They were cut down the middle and separated into individual pages. And this is to facilitate the processes that we were going to be using to develop the latent prints.
Each item was retained, pending the next process, altogether as one item.
Q. I'm not sure what that means. Do you mean you kept the magazines together?
A. No, each magazine was kept, all pages together, before they were put into the next process.
Q. I see. Okay.
A. At that time, they were subjected to a cyanoacrylate ester fuming process, and that's referred to as super glue fuming, and each separate page was hung in a fuming tank. In this case we have some aquariums which work quite well for that. Just need an airtight container.
The pages were exposed for approximately 15 minutes, allowed to dry for approximately 30 minutes. And then they were individually placed into plastic sheet protectors which were placed into binders.
Q. Now, where was this process done, the 3492

fuming?
A. The fuming was done in our lab at our Santa Barbara station.
Q. Okay. And who was it that was assigned the task of fuming all of these magazines?
A. Detective Spinner did the majority of the fuming. And I believe that he was assisted, at times, by Technician Shelly.
Q. All right. Scenescope. Tell us about that.
A. Moving on to --
Q. Tell us about that.
A. Moving on to the Scenescope, which is -- the actual scientific name for the instrument is a RUVIS, which is Reflective Ultraviolet Imaging System. Scenescope happens to be a trade name for the particular company that we use, but it's commonly referred to as that.
Q. And you use the Scenescope after the fuming is completed?
A. That's correct.
Q. And where was the Scenescope -- or Scenescoping of these individuals pages done?
A. We actually, excuse me, had two -- used two Scenescopes, one at our Santa Barbara main station lab and also in our Santa Maria station lab.
Q. What does this slide depict?
A. This is showing I.D. Technician Torres just demonstrating the Scenescoping process. Each page 3493

was examined for latent prints using the Scenescope. We had it hooked to a monitor, just as was displayed yesterday, but obviously a lot smaller, so that we could scan the -- each page individually. And as we came across what might be a usable print, we then marked and identified that print with the use of a permanent marker.
We had a numbered grid that we used to reference the location on the page. To get into a ninhydrin process, it can run ink, so we wanted to make sure we still had enough area of location of the print in case that happened.
Q. So tell me a little bit more about this grid. I see a picture of it in the lower right-hand corner. Is that correct, there's a grid on that page?
A. Yes, there is.
Q. And -- go ahead.
A. Excuse me. The grid is just a transparency that was -- it was a transparency divided into 20 squares, and that grid was used to help mark the location of any known prints that we had developed.
Q. So did you have a separate number for each of those squares, 1 through 20?
A. That's correct.
Q. All right. And if you located a print in one of those quadrants, you would mark it as 1, 2, 3, depending upon the quadrant? 3494

A. That's correct. And we used the template and always aligned it to the bottom and outside uncut edge so we'd have a clear edge to do our locations.
Q. Were there times when a fingerprint overlapped a quadrant?
A. Yes.
Q. What did you do in that instance?
A. In that instance, we referred to that area in our report as an intersection of whatever particular quadrant it was.
Q. And after you noted the quadrant, assuming you found a fingerprint using the Scenescope, did you further mark it in any fashion?
A. The print was marked using the marking pen as illustrated here. Also, we would note if there was -- the first latent on the print -- on the actual magazine page would be listed as L-1. If we came across another latent print, it would be marked as L-2. They were circled with the permanent marker showing the location.
Q. So you'd actually -- now, you'd actually circle the print with the permanent marker on the page?
A. On the page itself.
Q. On the page itself. All right. And you would identify the latent print as L-1 through however many prints you found on that 3495

1 page?
2 A. That's correct.
3 Q. And what would determine whether a print was
4 designated 1, 2, 3, 4, et cetera?
5 A. At the time we found it, whatever sequence
6 we were in. So if we'd already found two and came
7 across the next one, it would be 3.
8 THE COURT: Let's take our break.
9 MR. AUCHINCLOSS: Thank you.
10 (Recess taken.)
11 THE COURT: You may proceed.
12 MR. AUCHINCLOSS: Thank you, Your Honor.
13 If we could go back to "Input No. 1."
14 Q. All right. Detective, I have -- I believe
15 where we left off, we were describing how the
16 individual fingerprints were marked.
17 The next step is photography. Describe
18 what's going on here for us.
19 A. Yes. We use a Canon G2 digital camera,
20 which is attached to the Scenescope, and that allows
21 us to photograph the images. It's mounted on the
22 top. And each usable latent print was
23 photodocumented.
24 Q. Why did you use the digital camera?
25 A. This particular digital camera allows us to
26 view with the T.V. monitor, for one reason, and also
27 all of our digital images for all cases. That's the
28 standard camera that we're using. 3496

Q. Is this a high-resolution digital camera?
A. This particular one is a four megapixel.
Q. And that would be?
A. Four million -- it's mid-range to upper --
it's mid-range.
Q. For resolution?
A. For resolution.
Q. And how does it compare to regular film?
MR. SANGER: Objection; lack of foundation.
THE COURT: Sustained.
Q. BY MR. AUCHINCLOSS: Okay. Detective, can
you -- have you had a chance to ever use normal film
photography with the Scenescope? Have you ever
tried that out?
A. No, I have not.
Q. Is there a reason why you use a digital
camera with it as opposed to a regular film camera?
MR. SANGER: Asked and answered.
THE WITNESS: A regular --
THE COURT: Just a moment.
THE COURT: Overruled.
You may answer.
Q. BY MR. AUCHINCLOSS: Go ahead.
A. With a regular film camera, a single-lens
reflex does not allow us to scan the item to search
for the prints, where in this case, the digital
camera, we can hook the T.V. monitor up to it, see a
live video feed through the camera and be able to do 3497

1 our scanning of the particular pages.
2 Q. All right. Now, I notice in the photograph
3 to the right, there appears to be something like a
4 ruler there. What is that?
5 A. Yes. Every photograph that we take with a
6 fingerprint, we have a ruler for size measurement.
7 And also attached to the ruler is depicting the
8 actual item number, the page number that that latent
9 print was found on, and also the latent number.
10 Q. And who prepares that tag that's to the left
11 of that photograph?
12 A. In our case, while I was Scenescoping;
13 scanning the items, I.D. Technician Torres was also
14 inputting into the computer, logging the prints that
15 were found. So she would mark in the actual
16 location onto a post-it and attach it for me, and
17 then the photo was taken.
18 Q. So this little note was written by I.D. Tech
19 Torres; is that what you're telling us?
20 A. Yes, in that particular example it was. And
21 likewise, while she was Scenescoping, I would write
22 the post-it notes.
23 Q. Did you work in a team with I.D. Tech Torres
24 in this protocol?
25 A. Yes, I did.
26 Q. And during the time that you were working
27 with her to examine these various pages, were you
28 always working with I.D. Tech Torres? 3498

A. Yes.
Q. All right. Let's look at the next slide.
A. This is depicting Identity Technician Torres inputting the results that we got onto our reports. Again, they're referenced via the page location and number and entered into the computer. After we completed the photodocumentation of each page, we then returned that page to its original sleeve and continued with the next page.
Q. All right. Next slide.
A. Once we had completed the photodocumentation through the Scenescope with the particular item, it was then subjected to a ninhydrin chemical process, and that's when we went to the fume tank. Each item was removed from a page protector, again that same binder, submerged in a liquid solution, ninhydrin, hung to dry.
Q. Okay. And ninhydrin is?
A. Ninhydrin is a chemical that reacts with the amino acids in your body, skin, and what's transmitted onto papers or other items when you transfer a fingerprint. And so the ninhydrin reacts with the amino acids that are left in that item from your transfer.
Q. All right.
A. After the ninhydrin process, each page was resleeved, and placed back into the binder in its original location. 3499

It takes a couple days for the ninhydrin to fully develop. You can speed it up with heat, but it's better to just let it cure by itself for a few days. Then we go back and look for development. It will develop a purple color, usually red to purple.
So that's what we're doing right now is an examination of each page to see if we have any prints that have developed with that process.
Q. All right. Let's look at the next slide.
A. Any usable latent prints developed with the ninhydrin process were marked again with a permanent marker. And we used the numbered grid again to locate the point on the page for reference.
And this is an example of a ninhydrin print. You'll notice it's marked "No. 1-N," standing for "ninhydrin," and that's -- if we had latent prints on the page as well as ninhydrin prints, we would distinguish between the two. So Latent 1 would be ninhydrin, "Latent No. 1," and the -- or, excuse me, "Latent No. 1-N" would be ninhydrin, and just "Latent 1" for the super glued fingerprint.
The fingerprint images were saved into the forensics digital imaging system. We made copies of the images, and they were placed onto compact disks. And once those were compiled for each magazine, or group of magazines, they were then given to our Santa Barbara fingerprint examiners for evaluation.
Q. All right. So the photographs were placed 3500

on a CD-Rom format?
A. Correct.
Q. Okay. Would you also photograph the
ninhydrin-developed prints?
A. The ninhydrin prints were scanned as opposed
to photographed.
Q. What do you mean by "scanned"?
A. The particular page was placed onto the
scanner, computer scanner, and -- with a ruler, and
the image was scanned into the system.
Q. Okay. So a digital image was created by
means of a scanner as well?
A. That's correct.
Q. And then these images were provided to the
examiners for comparison purposes?
A. That's correct.
Q. All right.
Thank you, Your Honor.
Do you know -- and I'll ask for an estimate,
if you don't off the top of your head. How many
pages in this process were examined?
A. I don't know the exact number of pages that
we scanned, but I would say a thousand.
Q. Was this a time-consuming process?
A. Very time-consuming.
Q. Can you tell me about that, expand upon
that?
A. We started, I believe, processing somewhere 3501

near the end of August. Specifically in Santa Maria, we had 74 separate items that we were tasked with doing the processes on. The majority of those were magazines. There were several individual pages or centerfolds that had separated by themselves and were not with magazines. Individual manila folders and the like. But once the process started, it's -- while you're scanning each page, you have to take usually about seven scans per page on one side, you then flip the page and scan again.

Q. What do you mean "seven scans"?

A. Basically you're taking your page, and the Scenescope while you're scanning only allows you to do an area that's maybe three inches or two inches in width, so you're scanning across the top of the page, moving down, scanning back, moving down, scanning across. And as you come across anything that's fluorescing, ridge detail that's been subjected to the super glue, then we have to analyze it, look at it, see if we're going to use it as a print. If not, move on, and continue scanning -- the scanning process. So a magazine would take us a full day of -- depending on the number of pages, of course, of scanning and just doing the Scenescoping.

Q. Just doing the Scenescoping. Not including the fuming or ninhydrin?

A. The fuming had already been done, but the ninhydrin process still had to be completed. 3502

Q. How time-consuming is the fuming process?
A. The fuming process is, as we depicted earlier, for each magazine, they have to hang them in the tanks, fumed -- the fuming process itself is 15 minutes, then they let them dry and they continue.
So it's just a matter of hanging the magazine pages into the fuming tanks, which they were using three. But we're limited. Each tank has a certain size, so it's just the number of pages that would fit in each particular tank.
Q. What about ninhydrin, is that also time-consuming?
A. The ninhydrin process itself is not as time-consuming as the Scenescope, because we're just removing the pages, dipping them into the solution, and letting them air dry. And once we fill up our fume hood with the number of pages, then we have to go back, resleeve those items, and then continue on through the magazine with the remaining items. So it would be -- just the process itself would probably be an hour to an hour and a half, but then you have to let it, like I say, sit for a couple of days and then go back and do the analysis on it.
Q. In your experience as a law enforcement officer, have you ever undertaken or even heard of a fingerprinting protocol that involved materials of this magnitude? 3503

A. No, I have not.
MR. SANGER: I would object. Move to strike the answer and object. It was compound. Has he been involved in it, as opposed to --
THE COURT: Sustained. Stricken.
MR. AUCHINCLOSS: All right.
Q. Have you ever been involved in a fingerprint analysis that involved materials of such a large quantity?
A. No, I have not.
Q. Anything remotely this large?
A. No, I have not.
Q. Have you ever heard, in your experience as a law enforcement officer, of a fingerprint analysis that involves such large quantities?
A. No, I have not.
Q. Did the sheriff's department have to bring in extra help to complete this task?
A. Yes, we did.
Q. Do you know if there were any time constraints on you?
A. Yes.
Q. And you said that you were part of a team. Where did your team operate?
A. I.D. Technician Torres and I worked out of our Santa Maria station.
Q. Okay. And who were the other members of the sheriff's department that worked on that protocol? 3504

A. Detective Spinner. Detective Wittenbrock.
And Technician Shelly.
Q. All right. Detective, at this time I'd like to show you some cards that have been prepared, and we'll go through them one by one.
This card appears to be -- this is Exhibit No. 725. It appears to be Card 02 on the lower right-hand corner. Can you identify that card for me, please?
A. Yes, I can. That's a photograph of a fingerprint taken from Item No. 317-L, which is a "Finally Legal" magazine, December 2000 issue, and that's from -- the latent print is from page 31, Quadrant 15, Latent 1.
Q. Okay. Showing you Exhibit No. 726, itemized as 03 in the lower right-hand corner. Similar card?
A. Yes. This is a photograph from Item 317 Lincoln, L, "Finally Legal" magazine, December 2000 issue, page 126. It was in Quadrant 9, and it's identified as "Latent," the number "1."
Q. Exhibit No. 728, identified as 05 in the lower right-hand corner.
A. Yes. This is from Item 317-R, which is a Hustler "Barely Legal Hard-Core," prior -- it was -- it was printed prior to October 2000, page 54, Quadrant 6, Latent 1-N. That would be a ninhydrin print. 3505

Q. Exhibit No. 729, identified in the lower right-hand corner, 06.
A. This is Item 317-R, as well, Hustler, "Barely Legal Hard-Core," and again, prior to October 2000. Page 92, Quadrant 1 and 2, Latent 1.
Q. Exhibit No. 730, identified in the lower right-hand corner 07.
A. This is Item 317-R, Hustler "Barely Legal Hard-Core," prior to October 2000. Page 92, Quadrant 2, 6 and 7 is the intersection, and it's labeled as Latent 2.
Q. Exhibit No. 731, noted as 08 in the lower right-hand corner.
A. This is from Item 317-R. It's a Hustler "Barely Legal Hard-Core" prior to October of 2000, page 92, Quadrant 6, Latent No. 4.
Q. Exhibit No. 732, identified as 09 in the lower right-hand corner.
A. This is Item 317-S. It's a "Penthouse," page 63, Quadrant 15 and 20, and it's identified as Latent No. 1.
Q. Exhibit No. 733, identified as "10" in the lower right-hand corner.
A. Yes, this is Item 317-S. It's a Penthouse, page 87, Quadrant 7, Latent No. 1.
Q. Exhibit No. 734, identified as 11 in the lower right-hand corner.
A. This is Item No. 317-T, "Visions of Fantasy, 3506

a Hard Rock Affair," September '93 issue, page 3,
Quadrant 4 and 5, Latent No. 1.
Q. Exhibit No. 735, identified as No. 12 in the
lower right-hand corner.
A. This is Item 317-U, "Visions of Fantasy, Sam
Jose's Black Starlett," April 1993, page ten,
Quadrant 16, and Latent No. 1.
Q. Item No. 736, identified as 13 in the lower
right-hand corner.
A. This is from Item 317-YY, "Al Golstein's 100
Best Adult Videos," page A, Quadrant 15, Latent 1.
Q. Exhibit No. 738, identified as 14 in the
lower right-hand corner.
A. This is Item 321-A, "Playboy, Special
Editions, Girlfriends," August 2003, page three,
Quadrant 15 and 20, Latent No. 1.
Q. Exhibit No. 738, identified as 15 in the
lower right-hand corner.
A. This is Item 321-A, "Playboy, Special
Editions, Girlfriends," August 2003, page 29,
Quadrant 15 and 20, Latent No. 1.
Q. Exhibit No. 739, identified as 16 in the
lower right-hand corner.
A. This is Item 321-E, "Girls of Barely Legal,"
page one, Quadrant 2 and 3, Latent No. 1.
Q. Exhibit No. 740, identified as 17 in the
lower right-hand corner.
A. This is Item 321-E, "Girls of Barely Legal," 3507

page seven, Quadrant 15, Latent No. 1.
Q. And Exhibit No. 741, identified as 18 in the lower right-hand corner.
A. Yes, this is Item No. 321-F, "Finally Legal," February 2003, page 11, Quadrant 15, Latent 1.
Q. All right.
THE COURT: Counsel, would -- I think you have two 738s.
MR. AUCHINCLOSS: I'm sorry.
THE COURT: You identified two exhibits as 738. I don't know where the error is, whether you have two --
MR. AUCHINCLOSS: I'm sorry. 736, 738, I'm sorry, that was my mistake. 14 -- that is a seven. So why don't we repeat that.
Q. What is Item No. 321-A?
A. Item 321-A, "Playboy, Special Editions, Girlfriends," August 2003, page three, Quadrant 15 and 20, Latent 1.
MR. AUCHINCLOSS: Thank you, Your Honor.
Q. That is 737.
And 738, just so we're clear, is Item 321-A, "Playboy, Special Editions, Girlfriends," August 2003, page 29, Quadrant 15 and 20, Latent 1; is that correct?
A. That's correct.
Q. Sorry for that. 3508

Detective, I'm going to leave these up here with you.
Did you participate in the location and identification -- just for purposes of analysis, but not that you had analyzed them yourself, did you participate in the location of latent fingerprints on these particular magazine pages?
A. Yes, I did.
Q. And there is some information at the bottom of those various cards. Have you reviewed those cards for accuracy in terms of who the individual members of the protocol team were that participated in those various tasks?
A. Yes, I did.
Q. And are they accurate?
A. Yes, they are.
Q. Okay.
MR. AUCHINCLOSS: Your Honor, by stipulation, we are going to -- well, actually, if there's no objection, I would ask to move these items into evidence at this time.
THE COURT: That would be --
MR. SANGER: Just so it's clear, there was not a stipulation. I don't know what "that" meant.
MR. AUCHINCLOSS: Okay.
MR. SANGER: Which items are we talking about?
THE COURT: I think he's talking 722 through 3509

741. Is that right?
THE CLERK: No.
MR. AUCHINCLOSS: Yes.
MR. SANGER: That would be all of the --
THE CLERK: There was 725 and 726, and there was no 727.
MR. AUCHINCLOSS: We have three that will be identified by other witnesses. 742, 727, and 724.
THE COURT: Okay. Otherwise, 722 through 741, with the exception of those three.
MR. SANGER: Okay. The -- we're talking about the --
THE CLERK: 725, not 722.
MR. SANGER: With regard to the poster boards that were shown to the witness, and identified, I have no objection to those coming in.
THE COURT: Okay. That's 725 through 741 with the three exceptions.
MR. AUCHINCLOSS: Yes.
THE COURT: Those are admitted.
MR. AUCHINCLOSS: All right. Could I have the projection again, Your Honor, "Input 1"?
Q. All right. Detective, can you help us out with the exhibit number of that particular exhibit? I'm sorry. And I am going to move back one. There we go.
Please look at the cards in front of you, and tell me, what is the exhibit number of this 3510

1 particular image?
2 A. Exhibit 725.
3 Q. Okay. And how did you participate in the
4 location of this particular fingerprint?
5 A. I was doing the Scenescoping analysis at the
6 time that this print was identified.
7 Q. All right. And you located this print?
8 A. I located the print. I marked the print,
9 and put -- took the photo of the print.
10 Q. There is a little black outline that we can
11 see on the upper midsection of the photograph, and
12 it appears to disappear behind the ruler and then
13 continue down to the lower midsection of the
14 photograph. What is that?
15 A. That is the outline of the permanent marker.
16 Q. Did you put that marker there?
17 A. Yes, I did.
18 Q. All right. And you made this photograph.
19 And what did you do with it?
20 A. The photograph was made and subsequently
21 placed on our forensics computer, and then a copy of
22 that was made and sent to our Santa Barbara
23 examiner.
24 Q. And after taking this photograph, did you
25 and Detective Torres do any further processing of
26 this particular page in this particular magazine?
27 A. Once the -- this particular latent print,
28 Latent No. 1, if there were additional prints, we 3511

would then continue through the page and mark those, and also photograph.
Q. And did you do ninhydrin processing of this page?
A. We did after we were completed Scenescoping.
Q. So did you super glue this page?
A. No, I did not.
Q. Did it come to you already super glued?
A. Yes, all the items came to us super glued.
Q. And I believe you previously stated that was all done in Santa Barbara?
A. That's correct.
Q. And that was done in Santa Maria, this photograph?
A. That's correct.
Q. All right. Let's go to 317-L, "Finally Legal," December 2000. Can you share with us the exhibit number of that image?
A. This is Exhibit No. 726.
Q. And what did you do in -- concerning the protocol to locate fingerprints on this particular magazine?
A. Again, I was using the Scenescope at this time, and located the fingerprint. I marked the fingerprint with a permanent marker. Took a photograph. And it was subsequently downloaded onto our computer and a copy forwarded to our Santa Barbara office. 3512

Q. And subsequently, you did the ninhydrin on this page and --
A. That's correct.
Q. And for what it was worth, located other prints as well, but were not concerned about those at this time?
A. That's correct.
Q. Same question on this. This would be 727; is that correct?
A. I show 728 right now.
Q. All right.
A. I believe 727 is one of the other displays.
Q. Okay. Let me just go back one here. Okay, yes. Actually, I'm sorry. I'm sorry, my mistake, Detective.
This will be -- that one will be introduced through another witness. We'll deal with that later.
Okay. Let's go to 728.
A. Yes. 728 is the 317-R, Hustler "Barely Legal."
Q. All right. Tell me what you did to locate this particular print.
A. On this particular page, this was a print that was the result of a ninhydrin process. After we had done our Scenescoping, the entire magazine was placed in a ninhydrin bath, dried, as we mentioned before, and this particular print had 3513

developed as a result of the ninhydrin process.
Q. Okay. And I see the black line there. Is that the line you drew around the fingerprint?
A. That's correct.
Q. And you photographed this? Or, actually, I guess you scanned these images?
A. Yes, this was scanned.
Q. All right. Let's look at 729, Exhibit 729. What did you do to participate -- or how did you participate in locating this fingerprint?
A. Again, I was Scenescoping at the time this print was located. I did the Scenescope photography. I marked the location of the latent. It was downloaded onto our computer, and then forwarded off to our Santa Barbara examiners. And also a ninhydrin bath was done on this particular item, as well, after.
Q. But this item is a fuming Scenescope latent?
A. This is a super glued and Scenescope item, yes.
Q. Let's look at 730, I believe. We should do that. Is that right?
A. That's correct. Again, this is off the same 317-R. This is a Latent No. 2. I was Scenescoping this page. I located the print, marked the print with a permanent marker. Again, it was downloaded onto our photographs and downloaded onto our computer and forwarded to Santa Barbara. 3514

Q. All right. 731?
A. 731 is also from the 317-R, Hustler "Barely Legal," page 92, Latent No. 4. I also was Scenescoping at the time this was taken. It was from the same page as the previous. I marked the image, photographed it, downloaded it to our computer, and a copy was forwarded to our examiners in Santa Barbara, and thus, along with all the others on the same page, were part of the ninhydrin process after this was done.
Q. All right. 732?
A. 732 is the Item 317-S, "Penthouse." This latent print was also Scenescoped by myself. I marked it. Photographed it. It was subsequently downloaded and forwarded to our examiners in Santa Barbara.
Q. Okay. And the quadrants -- I don't think I've asked you, but the quadrants notated on each of these cards, are they an accurate depiction of the quadrant you located that fingerprint in?
A. Yes, they are.
Q. Did you bring with you an example of a quadrant?
A. Yes, I did.
Q. Okay. Could you -- do you have that with you?
A. It's in my notes. Can I get that?
Q. If you can pull it out. 3515

A. It's marked up.
Q. Do you need some back?
A. No.
Q. All right.
MR. AUCHINCLOSS: Your Honor, I have what appear to be a clear piece of plastic with various crosshatch and grid on it, and numbers. I'm marking it 768.
Q. I show you Exhibit 768, Detective. Is that one of the quadrant labeling devices that you used to locate fingerprints?
A. Yes, it was.
Q. You actually used that in this case?
A. That's correct.
MR. AUCHINCLOSS: All right. Move to move that exhibit into evidence at this time.
MR. SANGER: No objection.
THE COURT: It's admitted.
Q. BY MR. AUCHINCLOSS: Okay. So I believe we are now at 733. Tell us what you did in terms of locating this fingerprint.
A. Actually, this particular fingerprint was Scenescoped by I.D. Technician Torres. I assisted with that.
Q. Okay. So is -- whose writing is that in the left portion of the Scenescope photograph?
A. That would be my writing.
Q. Okay. So you would write when Technician 3516

Torres was using the Scenescope, and she would write the little post-it note when you were doing it; is that fair to say?
A. Correct.
Q. All right. Let's look at 734. What did you do to assist in locating this latent?
A. Again, I was with I.D. Technician Torres when she was using the Scenescope on this particular item.
Q. And again, you wrote the card?
A. That's correct.
Q. And participated in the ninhydrin process of this particular exhibit?
A. That's correct.
Q. All right. 735. What did you do to assist in locating this fingerprint?
A. On Item 735, I did the Scenescoping, and marked the location of the print, and photographed the item, and was downloaded onto our computer and forwarded to Santa Barbara, and also worked on the ninhydrin process after this process.
Q. 736.
A. Item 736 was an item that was Scenescoped by I.D. Technician Torres, and I assisted her with the ninhydrin process after that.
Q. Okay. Same questions for Exhibit 737.
A. Item 737, I did the Scenescope locating of the print. I marked the print with a permanent 3517

1 marker, photographed it, and then downloaded it onto
2 our computer and forwarded it to Santa Barbara.
3 Also, the ninhydrin process was completed again on
4 this particular item after the fact.
5 Q. All right. And how did you help find Item
6 No. 7 -- or Exhibit No. 738?
7 A. 738 was also an item that I Scenescoped,
8 located the fingerprint. I, excuse me, downloaded
9 the item onto our -- marked it, photographed it, and
10 downloaded the item onto our computer to be
11 forwarded to Santa Barbara.
12 Q. 739?
13 A. 739 was also an item that I did the
14 Scenescoping on, locating the prints, marked the
15 print, photographed the print, and downloaded it
16 onto our computer, and it too was forwarded to Santa
17 Barbara.
18 Q. 740, same question.
19 A. Item 740 was Scenescoped by I.D. Technician
20 Torres. I assisted her with that. And we both
21 worked on the ninhydrin process following that.
22 Q. And this was photographed and downloaded, as
23 was the other prints; fair to say?
24 A. Correct.
25 Q. Okay.
26 A. And it is my writing there.
27 Q. 741?
28 A. Item 741 is also an item that I Scenescoped, 3518

and marked the photograph, photographed the item,
and download it and saved it onto the forensics
computer.
Q. Okay. Now, I notice a disparity on this
particular card. It appears to say, in the upper
left-hand corner, upside down, "321-D." Is that
accurate?
A. That's correct.
Q. And the title of this card at the top of the
page says "321-F"?
A. That's correct.
Q. How do you explain that disparity?
A. Prior to us receiving the items from Santa
Barbara, the items were, as was mentioned, placed in
binders. The binders were marked with just some
placards with just the number of the items, not the
actual title of the item. And we discovered that
the magazine covers had been -- the placards had
been reversed on two magazines.
Q. Okay. And of these prints that I've shown
you today, how many prints did that affect?
A. That affected this particular print on this
magazine.
Q. Only one?
A. That's correct.
Q. Who caught this error?
A. I did.
Q. Okay. And is it -- is the card as it is 3519

noted above Item 321-F, "Finally Legal," is that the correct magazine that that print was obtained from?
A. That is correct.
Q. And it was obtained from page 11, Quadrant 15, and it's Latent No. 1; is that correct?
A. Correct.
Q. After noting this error, did you go back and check all the other prints that I've just shown you?
A. That's correct. I.D. Technician Torres and I went through every one of our processed items to make sure that no other mislabeling errors had occurred.
Q. Okay. Were there any other mislabeling errors?
A. No, there were not.
Q. Detective, I'd now like to run you through some more photographs, and ask you some particulars about the exact location of these prints.
And I think what I'd like to do, Your Honor, is to have you black out the screen for a moment while I change presentations.
Thank you.
MR. SANGER: And, Your Honor, I'm going to object to showing this next presentation. It's cumulative, and unnecessary to the presentation. If we could approach, I could explain it.
THE COURT: What is it?
MR. AUCHINCLOSS: It is a run-through of 3520

showing the exact location on the exact page that these prints were found.
THE COURT: The objection is overruled.
MR. AUCHINCLOSS: All right.
MR. SANGER: There's a 352. I don't know if I expressly said that, but as the Court will see when it starts, perhaps Your Honor will understand what I'm saying.
MR. AUCHINCLOSS: This will take just a moment.
THE COURT: Your 352 objection is the undue use of time?
MR. SANGER: Well, it's that, and the subject matter of the pictures is to simply put up more pages of magazines for no apparent reason. They've already been identified coming out of certain magazines.
MR. AUCHINCLOSS: These are graphic images, Your Honor, and the Court should be aware of that, but they are also graphic images with the fingerprints which we will ultimately show are particularly relevant to this case. And I think it's important that the --
THE COURT: All right. The objection is overruled.
MR. AUCHINCLOSS: All right. Thank you.
Q. All right. We're going to go through this relatively quickly, but I'm going to ask you if the 3521

item -- I'm going to start with 317-L, which is No. 2, and ask you if this is the location where that print was found that you located. Okay?
A. All right.
Q. Okay. If I could have just one more moment. All right. If I could have the "Input 1" put on.
Detective, there is a fingerprint image, Item No. 317-L, with an arrow drawn and a circle. Is that where you found that fingerprint?
A. That is correct.
Q. There is a fingerprint with an arrow drawn, and it's rather blacked out, but the arrow is to a particular location on that photograph. Is that where you found the fingerprint on Item 317-L, page 126, Quadrant 9, Latent 1?
A. Yes, it is.
Q. Let's see. There is a fingerprint noted on that page. It appears to be a ninhydrin fingerprint. Is that the fingerprint you found on Item 317-R, "Barely Legal Hard-Core," prior to October 2000, page 54, Quadrant 6, Latent 1-N?
A. That's correct.
Q. There is a fingerprint with an arrow to it. Is that the fingerprint that you found on Item 317-R, Hustler, "Barely Legal Hard-Core" prior to October 2000, page 92, Quadrant 1 and 2, Latent No. 1? 3522

A. Yes, it is.
Q. There's a fingerprint noted with an arrow to it. Is that the fingerprint that you found on Item 317-R, Hustler, "Barely Legal Hard-Core," prior to October 2000, page 92, Quadrant 2, 6 and 7, Latent No. 2?
A. Yes, it is.
Q. There's a fingerprint with an arrow to it. Is that the fingerprint that you found on Item 317-R, Hustler, "Barely Legal Hard-Core," prior to October 2000, page 92, Quadrant 6, Latent 4?
A. Yes, it is.
Q. There is a fingerprint with an arrow drawn to it. Is that the fingerprint that you found on Item 317-S, page 63, Quadrant 15 and 20, Latent No. 1?
A. Yes, it is.
Q. I'm going to skip the next two. I'm sorry. There is a fingerprint noted on Item 317 -- I'm sorry, on Item 317-U, "Visions of Fantasy, Sam Jose's Black Starlett," April 1993, page ten, Quadrant 16, Latent No. 1. Is that the fingerprint that you found on that page?
A. Yes, it is.
Q. Skipping one more. There's a fingerprint noted with a green arrow. Is that the fingerprint that you found on 3523

Item 321-A, "Playboy Special Editions Girlfriends," August 2003, Quadrant 15 and 20, Latent 1?
A. Yes, it is.
Q. All right. I'm sorry. There's a fingerprint located with a green arrow to it. Is that the fingerprint that you found on Item 321-A, "Playboy, Special Editions, Girlfriends," August 2003, page 21, Quadrant 15 and 20, Latent 1.
A. Yes, it is.
Q. There's a fingerprint noted with a green arrow. Is that the fingerprint that you located on page one of Item 321-E, "Girls of Barely Legal," Quadrant 2 and 3, Latent No. 1?
A. Yes, it is.
Q. All right. And finally, there is a fingerprint located with a green arrow. Did you find that fingerprint at that location, Item 321-F, "Finally Legal," February 2003, page 11, Quadrant 15, Latent 1?
A. Yes, I did.
Q. Thank you.
MR. AUCHINCLOSS: I have no further questions.
THE COURT: Counsel, cross-examine?
MR. SANGER: Can I have a moment with counsel?
(Off-the-record discussion held at counsel table.) 3524

MR. SANGER: May I proceed, Your Honor?
THE COURT: Yes.

CROSS-EXAMINATION
BY MR. SANGER:
Q. Okay. I'm going to start at the end, because unfortunately you're going to have to come back tomorrow, I think. But since we have the technology hooked up, we'll do that.
Would it be all right to have the screen --
And this was -- this was -- this was presented to you earlier. And this reflects the same photographs that you have in the set of hard board exhibits in front of you; is that correct?
A. That's correct.
Q. All right. Now, when you look at these photographs, all of the photographs in this set are super glue fumed and Scenescoped with the exception of one; is that right?
A. That's correct.
Q. And that one is No. 5 here.
For the record, could you find that in the set of boards there in front of you?
A. Certainly, yes.
MR. SANGER: All right. And just so the jury is oriented, Your Honor, could the witness just hold it up so they can get an idea of what we're looking at? 3525

Okay. Same thing.
Q. All right. Now, that particular image was developed by virtue of the ninhydrin process, right?
A. That's correct.
Q. And you showed everybody - and I think everybody's become an expert in this - you take the thing, dip it the ninhydrin solution, you hang it up on the clothesline, and it dries in a couple of days, if you don't use artificial heat, correct?
A. Correct.
Q. When it dries, you come up with purple prints?
A. Correct.
Q. All right. The other thing about the ninhydrin print is that it is scanned into the computer; is that correct?
A. That's correct.
Q. Now, with the super glue, you -- first of all, you do the super glue fuming, put it in one of those fish tanks?
A. Correct.
Q. And then once the super glue fuming is concluded, you then use the Scenescope, and that's where you come up with these green digital images; is that correct?
A. That's correct.
Q. So those are digital images taken by a digital camera through a Scenescope, through a 3526

1 scope, right?
2 A. That's correct.
3 Q. Whereas this one, whatever number it is, the
4 ninhydrin print you just showed us, 317-R, page 54,
5 Latent 1-N, that ninhydrin print is readily visible
6 to the eye, correct?
7 A. That's correct.
8 Q. And, in essence, the picture that you have
9 there is what you see is what you get. You would
10 see that on at page, if the page were here?
11 A. That's correct.
12 Q. All right. Now, the issue with regard to
13 producing these particular images when you're
14 dealing with the Scenescope and the super glue
15 fuming, you have to be careful in super glue fuming
16 not to overfume, correct?
17 A. That's correct.
18 Q. Because if you overfume, then you can lose a
19 lot of the detail in the print itself?
20 A. That's true.
21 Q. And in the course of the Scenescope, you are
22 taking a picture through a digital camera; is that
23 correct?
24 A. That's correct.
25 Q. Now, the reasons you gave us for a digital
26 camera --
27 And we can now turn this off, I think, if
28 that's all right. 3527

Thank you, Counsel, for letting me borrow it.
The reasons you gave for using the digital camera are primarily reasons of convenience, correct?
A. Yes.
Q. In other words, you're aware that the company Spex that manufactures the Scenescope recommends that you use a film camera; is that correct?
A. Actually, I'm not aware of that. I understand that they offer -- I don't know if they still do, but they actually offered a camera package with their Scenescope, which is a digital camera, and they do also offer a 35-millimeter camera.
Q. So do you know whether or not Spex, the company that makes this device, recommends that you use a 35-millimeter-film camera?
A. That was not expressed to me, no.
Q. Do you know that -- and what you might do - I know it's the very end of the day - but if you could turn a little more towards the microphone, because you're fading out just a bit there.
Are you aware of the studies and literature in the area that suggests that a digital camera will not capture some of the detail that a film camera will capture?
A. That's correct. 3528

Q. You use a digital camera because it is
easier to scan. In other words, rather than taking
a whole bunch of film pictures, you can scan on your
monitor and hone in on what you want before you
click the picture, true?
A. There would no way that we could accomplish
the task of going through the photos that we have by
using a single-lens reflex camera in the time span
that we had.
Q. Okay. The question was, though, that you
used the digital camera because it allows you, I
think you told us on direct examination, to scan
with the monitor --
A. Correct.
Q. -- right?
So, in fact, in real time, as your
Scenescope goes around the page and you find
something you like, you can make sure you got it
centered, and once it's centered, based on what
you're looking at in your monitor, you can click the
picture?
A. That's correct.
Q. If you were going to use a film camera, you
would either have to take pictures of the entire
page, or you'd have to look through the Scenescope,
figure out what you're going to take a picture of,
and then click the picture; is that correct?
A. That's correct. 3529

Q. All right. You also said that the digital
camera is a mid-range camera as far as the
definition; is that correct?
A. That's correct. At the time that camera was
purchased, it was the top of the line that our
agency would be able to -- be able to afford.
Q. Okay. And like everything else, after 18
months, you need to buy a new one; is that right?
Everything else electronic, it seems.
All right. But in any event, it's about
mid-range as far as the definition; is that correct?
A. Correct.
Q. And you also indicated that it was a matter
of convenience that you could take the digital
pictures and then you could simply download them to
a disk, correct?
A. They were downloaded to a hard drive and
then a copy was made, correct.
Q. So the first step is, you downloaded it onto
the hard drive for your forensic computers that you
have there?
A. Right.
Q. And then you would make a disk from the hard
drive?
A. Correct.
Q. So it's a matter of convenience.
Now, you're aware that there are some
aspects -- let me back up just one second. I'm 3530

trying to do a two-minute subject here without going into detail at the moment.
Are you certified as a latent print examiner?
A. I am not certified.
Q. Okay. And do you do latent print examinations yourself?
A. I do latent print examinations which are verified, that's correct, with another examiner.
Q. By somebody else. You did not do these latent print examinations or comparisons yourself?
A. Correct.
Q. Okay. But in other cases, you've done that from time to time; is that right?
A. That's correct.
Q. And how long have you been doing latent print comparisons?
A. Approximately a year. Well, a year where I've been doing it with another examiner. I've been doing comparisons before that were then reviewed by other, more senior technicians.
Q. All right. So, are you considered a latent print trainee at this point, or latent print examiner?
A. I don't know the status.
Q. You don't have any organization that certifies you one way or the other, that examines you -- 3531

A. No.
Q. Do you belong to SWGFST?
A. No, I do not.
Q. All right. Now, in the minute remaining, let me just ask you about this, about the digital camera issue.
As -- I know you didn't do examinations or comparisons in this case, but when you're developing prints, you are doing that with the intention of developing something that a latent print examiner can compare, is that correct?
A. That's correct.
Q. So you want to try to get the best product you can for your examiner, correct?
A. That's correct.
Q. And in that regard, you know that you -- that it can be very helpful to an examiner to look at pores, correct?
A. That's correct.
Q. And also to look at the shape of ridges, if possible; is that correct?
A. Third-level detail, correct.
Q. Yeah, third-level detail. So we're not just talking about where they go and how they're laid out, but the actual shape of the actual ridge; is that correct?
A. If needed, yes.
THE COURT: All right. Counsel, let's take 3532

our break.
MR. SANGER: I have one more.
THE COURT: Do you want to ask one more?
MR. SANGER: Yes. Then I don't have to
start over tomorrow.
I made everybody mad in the whole courtroom
at once, all right.
Q. With the digital camera, you tend to not be
able to pick up the pores and the shape of the
ridges as well as a film camera; isn't that correct,
sir?
A. Actually, we were able to get several prints
with this camera that did show pore detail.
Q. In general, a film camera is better at
getting the pores and the ridge shapes than the
digital camera, correct?
MR. AUCHINCLOSS: Object as to foundation.
THE COURT: Sustained.
MR. SANGER: Ahh. There you go.
MR. ZONEN: Your Honor, could the Court and
counsel remain just one more moment after the jury's
excused?
THE COURT: Yes.
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(The following proceedings were held in open court outside the presence and hearing of the jury:)

MR. ZONEN: Thank you, Your Honor.
I just wanted to notify the Court, we were able to resolve one of the issues that was pending before the Court.
Over the last break, I spoke with Mr. George Blancarte, who is George Lopez's attorney, and we are agreeing they are withdrawing their opposition to the subpoena that had been issued by the defense.
In fact, Mr. Lopez will be testifying for the prosecution, we expect, on Monday.
THE COURT: Who's going to testify tomorrow?
MR. ZONEN: We do have a list. Would you like to know the list for tomorrow?
THE COURT: Yeah, I'd like to know.
MR. SNEDDON: Well, we'll finish this witness's testimony, Your Honor, and then perhaps Miss Romero, and then Detective Spinner with the fingerprints. And we figured that would take us through the day. And I think we talked in chambers about if we didn't have all the way through the day, that that was okay with you.
THE COURT: Okay.
MR. AUCHINCLOSS: We also have some other fingerprint techs that will be testifying. 3534

MR. SNEDDON: They're minor. They're short witnesses.
THE COURT: All right. Thank you.
MR. ZONEN: Thank you.
(The proceedings adjourned at 2:30 p.m.)
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REPORTER'S CERTIFICATE

THE PEOPLE OF THE STATE )
OF CALIFORNIA, )
Plaintiff, )
-vs- ) No. 1133603
MICHAEL JOE JACKSON, )
Defendant. )

I, MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304, Official Court Reporter, do hereby certify:

That the foregoing pages 3380 through 3535 contain a true and correct transcript of the proceedings had in the within and above-entitled matter as by me taken down in shorthand writing at said proceedings on March 24, 2005, and thereafter reduced to typewriting by computer-aided transcription under my direction.

DATED: Santa Maria, California, March 24, 2005.

MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304